



Elmbridge
Borough Council

... bridging the communities ...

Civic Centre
High Street, Esher
Surrey KT10 9SD
01372 474474

elmbridge.gov.uk/contactus

Ms C Masters MA (Hons) FRTPI
c/o Charlotte Glancy
Programme Officer
Banks Solutions
80 Lavinia Way
East Preston
West Sussex
BN16 1DD

contact: S Pharoah
direct line: 01372 474827
e-mail: spharoah@elmbridge.gov.uk
my ref: COUD002
your ref:

10 November 2023

By e-mail

Dear Ms Masters,

Elmbridge Local Plan Examination - Council's response to the Inspector's initial letter (ID-001)

Further to your initial letter (ID-001), please find below the Council's response to your queries and request for additional information and documents. This response goes through each of your points in turn.

Missing Documents

Missing documents

The housing topic paper document "Establishing Local Housing Need (May 2022)" was published as part of the Regulation 19 period and did form part of the submission documents. This document is within the examination library under document reference HOU001. The Green Belt Site Assessment Proformas (2021/2022) [OTH038 – OTH040] and Green Belt Site Assessment Explanatory Notes (2021) [OTH041] and Exceptional Circumstances Case: Green Belt (January 2022) [OTH042] will be made available in the examination library.

It should be noted that documents [OTH038 – OTH041] and [OTH042] were produced as part of the iterative process of policy discussion and formulation by the Council, particularly when considering the Spatial Strategy of the draft Elmbridge Local Plan. The substance of these documents has been covered in other submitted documents such as the Sustainability Appraisal (SA) and Topic Paper 1 How the Strategy was formed.

Flood risk

The Council is continuing to engage with the Environment Agency (EA) regarding flood risk work and agreeing a preliminary Statement of Common Ground. The Council has engaged our consultants, AECOM to undertake a Strategic Flood Risk

Assessment Level 2. However, at a meeting with the EA on 23rd October 2023 and further written comments received on 6th November 2023, the EA are now requiring the Council to update the Strategic Flood Risk Assessment Level 1 and have advised the Council that they can provide comments on which elements they require updating in the next four weeks. Following this very recently received requirement the Council is discussing the completion of this work and the associated timescales with AECOM. Once we have further clarity, we will provide this information to the Examination.

Duty to Cooperate Statement of Compliance

In relation to the Duty to Cooperate Statement of Compliance and the meetings referred to, the Council has provided the additional materials available (e.g., agendas, minutes of meetings and presentations) in relation to the Housing Market Area (HMA) Partnership Meetings in Appendix 1. This includes:

- DtC Meeting Minutes - Elmbridge, Epsom & Ewell and Mole Valley (North East Surrey) - 2 July 2020
- DtC Meeting Agenda - Kingston & North East Surrey (Elmbridge, Ewell and Mole Valley) - 14 October 2020
- Elmbridge Local Plan - Emerging Growth Strategy DtC Presentation - Kingston & North East Surrey - 15 July 2021
- Mole Valley Local Plan - Housing Delivery & Supply DtC Presentation - 15 July 2021

Regarding the Duty to Cooperate and the Council's activities, the details of these have been recorded within the Duty to Cooperate Compliance Statement (June 2022) and Update (August 2023). These documents not only list the dates of meeting and who these were between but, provides a summary of the key issues / points discussed and actions arising where relevant. Taking a proportionate and pragmatic approach to recording its activities particularly at a time when resources were impacted due to the COVID-19 Pandemic, this information has not been duplicated in the taking of minutes of meetings for example.

As set out in each of the Statements of Common Ground with our HMA Partners and other neighbouring authorities for example, each party has agreed that the Council's Duty to Cooperate Statement (June 2022) and their own documents where prepared, provide an accurate record of their engagement.

Council responses to Representors

The Council has included a more detailed response to each of the representations made at Regulation 19 as requested in paragraph 7 of your letter and this revised document [CD034a] will be made available in the examination library.

The Plan Period

When the Council commenced preparation of the Local Plan it was intended that it would have 15-year plan period. However, due to the impact of the Covid 19 pandemic, as well as the uncertainty around the Government's proposed changes to national policy and the need to consider the implications of these proposed changes, for the

DELP preparation, the anticipated timeframe in which the Local Plan would be adopted has been delayed. Leading to the publication of a draft plan with a plan period of less than 15 years.

Taking a pragmatic and proportionate approach to the evidence base, the Council is mindful that to extend the plan period to 15 years would require various elements of the evidence base to be revisited and updated, which has significant time and cost implications. Moreover, a 15-year plan period is not a legal requirement but guidance. Neither the Examining Inspector, nor the Council, are bound to follow guidance and may depart from it provided that it is done consciously and with reasons.

The Council is among a minority of local authorities that are continuing to bring forward their local plans in the current planning climate and it is considered that adopting a local plan should be the priority in light of the Government's national objective to ensure all local authorities have a local plan in place.

Finally, the Council commits to undertake a full review of the Local Plan every 5 years and significant changes to the local plan making process/system are expected to come through in the next few years which will very likely lead to the need to undertake an early review of the Local Plan after its adoption.

Vision, Spatial strategy and housing need

The Council acknowledges the Inspectors' comments made under this heading in her letter. The Council's approach to formulating its spatial strategy is set out in its Topic Paper: How the Spatial Strategy was formed (June 2022). The Council considers this to be a sound strategy in accordance with the NPPF.

In light of the considerations set out in the topic paper How the Strategy was formed (TOP001), it is the Council's position that the spatial strategy proposed in the Local Plan is sound and that a strategy that seeks to protect the existing boundaries of the Borough's Green Belt and character of its urban areas is a true reflection of the communities' aspirations for the Borough.

Moreover, a strategy that seeks to deliver the aspirations of the Borough's communities aligns with a key objective of the Government's proposed reforms of the planning system and the local plan making process, which seek to ensure local communities have a greater say in what is built in their neighbourhood.

Affordable housing

The Council has prepared a topic paper on the matter of affordable housing [TOP002] which addresses the points raised in your letter.

Other housing needs

In response to the Inspectors' letter, the evidence does indeed indicate that between 2020 and 2035, the borough will need an additional 133 units of extra care accommodation.

The Council has reviewed extant planning permissions relating to the provision of extra care units. As of October 2023, there are currently 474 units which benefit from a planning permission. The details of the applications can be viewed in the table below. Furthermore, a review of the site allocations set out in the Local Plan, confirms that there are 4 sites with a total provision of 302 net units suitable for C2/Extra Care homes. Details of each site allocation can be found in the table below.

The Council expects planning applications for C2 / Extra Care homes to continue to come forward within the borough. However, as demonstrated with existing permissions and allocations, the level of need can be accommodated and there is capacity for additional need to be met in the future.

Planning Permissions covering period 01/10/2020 - 01/10/2023 relating to extra care housing need

Application Number	Site Address	Net Units
2020/0832	Homebase New Zealand Avenue Walton-On-Thames KT12 1XA	209
2019/1813	The Royal Cambridge Home, 82-84 Hurst Road East Molesey KT8 9AH (C3)	60
2022/2746	Members Hill, Brooklands Road, Weybridge, KT13 0QU	205

Local Plan Site Allocations proposing C2/Extra Care Use

Reference No.	Site Name	Net Units	Deliverable/developable
H3	Hersham Shopping Centre, Molesey Road, Hersham	200	Deliverable 1- 5 years
WOT15	Bradshaw House, Bishops Hill and Walton Centre for Community, Manor Road, Walton-on-Thames, KT12 2PB	18	Developable 6-10 years
COS26	Tiltwood Care Home, Hogshill Lane, Cobham, KT11 2AQ	24	Developable in 11-15 years
MOL20	Joseph Palmer Centre, 319a Walton Road, West Molesey, KT8 2QQ	60	Developable in 11-15 years

Gypsy and Traveller Assessment

The evidence base consists of a Gypsy and Traveller Accommodation Assessment (GTAA) October 2020 completed by ORS and a Gypsy, Roma and Traveller Site

Assessment, March 2022 prepared by the Council. These assessments have concluded that there is a need for an additional 10 pitches.

Following the Lisa Smith v SSLUHC [2022] EWCA Civ 1391 judgement, the Council contacted the consultants, ORS, to ask if the judgement had implications for the assessment undertaken. ORS advised the Council that the Lisa Smith Judgement had not changed the evidence in the GTAA 2020. ORS confirmed that none of the households identified as not meeting the definition in the borough had ill health or old age preventing them from travelling.

In terms of the approach to meeting need, the GTAA states that 4 pitches are required in the first 5 years of the plan, and this relates to single concealed/ doubled up adults and teenagers. The recommendation is to use additional touring caravans, dayrooms and shared static caravans to meet the immediate family needs on existing sites. As a result, formal pitch allocations are not considered necessary and thus a capacity assessment has not been undertaken. The consultants have advised us that they explored with residents whether they felt their needs could be met through this method and it was confirmed by residents that this approach is feasible and realistic.

Houseboats

Elmbridge is the only Council in this area of the River Thames that has undertaken an assessment of need for Boat Dwellers. This assessment did indeed identify a need for 10 licensed permanent moorings. Following the identified need from the accommodation assessment, the Council undertook a site assessment to seek to identify land / moorings that could meet the identified need. As part of this work the Council contacted neighbouring LPAs, Surrey County Council and the Environment Agency who own land along the river. The correspondence sent out is included in appendix 2. The responses received to this letter are summarised in paragraph 4.2 of the site assessment report and the full responses are included in appendix 2 to this letter.

There has been ongoing enforcement action on unauthorised moorings in the borough by both the Council and the Environment Agency. A full update of all the enforcement action can be found on the Council's website¹. Part of the ongoing enforcement action currently being undertaken concerns those who have made representations to the Local Plan. The enforcement action follows an appeal that was dismissed in April 2023 which is referenced in the representation made. A copy of the appeal decision is included in appendix 3. Whilst the Council does understand the benefits of Statements of Common Ground and has entered into numerous with neighbouring authorities and stakeholders, due to the current sensitive circumstances, the Council considers that it is not an appropriate course of action at this time.

Housing Trajectory

In line with paragraph 74 of the NPPF and to support Strategic Policy SS3, the draft Local Plan includes a trajectory illustrating the expected rate of housing delivery over

¹ <https://www.elmbridge.gov.uk/environment/unauthorised-moorings>

the plan period. Appendix A5 of the draft Local Plan presents the trajectory using committed sites, sites with planning permission, Land Availability Assessment (LAA) sites and windfalls with a base date of 31 March 2022. The trajectory is updated annually and is published in the council's Authority Monitoring Report.

The most up to date trajectory and the LAA evidence that informs this is anticipated for publication in January 2024. The trajectory will be extended to reflect a 16-year period so that it covers a 15-year time frame from the date of adoption which is anticipated for 2024.

In terms of deliverability of sites in the 1-to-5-year timescale, this includes sites under construction and those with planning permission on 31 March 2022. It also includes LAA sites which are considered deliverable for the following reasons:

- A submitted application which is currently under consideration.
- A recent refusal or dismissal which reasons can be overcome.
- A pre-application query with support in principle.
- Withdrawn applications with support in principle.
- Land ownership availability and timescale confirmed by the landowner.

In addition to the above, the most recent LAA 2023 will include those sites promoted at Regulation 19 where they intend to apply for planning permission imminently and the size of development can be delivered within a 5-year period.

The council has undertaken various surveys on the use of the Borough's car parks. The most common method is through analysis of ticket sales, but visual counts are also used for non-charging days and potential non-payment of the charges by motorists. After consultation with the council's parking operations and estates management teams, five council owned car parks are no longer available. As well as being in higher use than in 2020/21 (which informed the LAA 2022), the car parks also yield high revenues and are important to local shops, transport connections and community uses such as the karate centre that fronts the Hare Lane car park. Eleven Council owned car parks will remain in the site allocations chapter.

The Council is currently updating the LAA and the site proformas will include information on whether the car parks will be reduced or relocated.

Procedural Matters

Proposed modifications

The modifications the Council has proposed in document CD009 mainly refer to amendments to the plan that formed part of some representations to the Regulation 19. The Council can confirm that these have not been subject to consultation but have been considered through the Sustainability Appraisal of the proposed modifications (CD010) and through a Habitats Regulations Assessment (CD011).

Strategic and non-strategic policies

For clarity the table below identifies the three strategic and remaining non-strategic policies.

Strategic Policies
SS1 Responding to the climate emergency SS2 Sustainable place-making SS3 Scale and location of good growth
Non-strategic Policies
CC1 Energy efficiency, renewable and low carbon energy CC2 Minimising waste and promoting a circular economy CC3 Sustainable design standards CC4 Sustainable transport CC5 Managing flood risk ENV1 Green and blue infrastructure ENV2 Landscape, trees and woodlands ENV3 Local Green Spaces ENV4 Development in the Green Belt ENV5 Thames Basin Heaths Special Protection Area ENV6 Protecting, enhancing and recovering biodiversity ENV7 Environmental quality ENV8 Air quality ENV9 Urban design quality ENV10 Heritage Assets ENV11 Strategic Views HOU1 Housing delivery HOU2 Optimisation of sites HOU3 Housing mix HOU4 Affordable housing HOU5 Housing technical standards HOU6 Specialist accommodation HOU7 Gypsy, Roma, Traveller and Travelling Showpeople accommodation HOU8 Self and custom build housing ECO1 Supporting the economy ECO2 Strategic Employment Land ECO3 Supporting our town, district and local centres ECO4 Promoting visitor attractions and arts and cultural venues ECO5 Equestrian-related development INF1 Infrastructure delivery INF2 Social and community infrastructure INF3 Health and wellbeing of communities INF4 Play and informal recreation space INF5 Communications INF6 Rivers

Replacement policies

The Council confirms that the Local Plan will replace all the policies contained within the existing adopted Elmbridge Core Strategy 2011 and the Elmbridge Development Management Plan 2015. An updated table is included in appendix 4 to this letter setting this out.

Burwood Park Neighbourhood Plan

Regarding the Burwood Park Neighbourhood Plan, a forum and area were designated around Burwood Park on 20 July 2016 however, since that date the forum has not taken forward a neighbourhood plan and the designation has now lapsed in accordance with the regulations. The Borough has no other neighbourhood plans.

I trust this provides the clarification you require, but please do let the Council know if you have any further questions.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Ktag', followed by a long horizontal flourish and a period.

Kim Tagliarini
Strategic Director, Place and Community

Appendix 1 DtC Meetings Minutes and Agendas

Duty to Cooperate Meeting: Elmbridge, Epsom & Ewell and Mole Valley (North East Surrey)

Thursday 2 July 2020

Attendees:

Kim Tagliarini (KT), Elmbridge Borough Council (EBC)
Suzanne Parkes (SP), Elmbridge Borough Council (EBC)
Viv Evans (VE), Epsom & Ewell Borough Council (EEBC)
Wai-Po Poon (WPP), Epsom & Ewell Borough Council (EEBC)
Piers Mason (PM), Mole Valley District Council (MVDC)
Andrew Barber (AB), Mole Valley District Council (MVDC)

Apologies:

Jane Smith, Mole Valley District Council

Minutes / Actions

1. Local Plan position update – key milestones / timetables (all)

- Each LPA provided an update on their LP timetable. In common was that most timetables had slipped by up to 6-months due to COVID-19 and other issues but that all LPAs are aiming for an up to date plan to be in place by the end of 2023. Generally, all the LPs are within 6-months of each other.
- VE provided an update for EEBC. Regulation 18 (full Draft Plan) was planned for May / June this has now slipped to an October Committee whilst further Member engagement is taking place. The aim is a 6-week consultation starting November.
- PM provided an update for MVDC. The Regulation 19 consultation was programmed for September, but this is now likely to be earlier next year. An interim LDS is planned but this will highlight the delay rather than set out new dates. Prior to the next consultation, Members are reviewing the evidence base / consultation responses and reviewing the options available to them.
- SP provided an update for EBC. The Regulation 19 consultation was programmed for September / October but has slipped. Officers envisaged this to now take place early next year with Submission March / April 2021. A new LDS is being drafted and will go through the Committee structure starting September.

2. Cross boundary strategic issues that need to be considered (other than housing) (all)

- PM raised J9 of the M25 (Leatherhead) (clockwise) as a potential cross-boundary issue that may require further discussion – the A243 heads towards Kingston / Epsom via Malden Rushett and the A244 towards Oxshott. MVDC are working with SCC and HE on potential solutions for reducing queue-times exiting the M25. SP stated that EBC's key focus had been on M25 / J10 and that J9 and not been raised previously as an issue.

- ***ACTION: It was agreed to check respective Transport Assessments to see what impact on M25 / J9 that our development proposals may have individually and in combination.***
- There was a general discussion on the need for employment land / strategies moving forward in light of the COVID-19 pandemic with a particular focus on the High Street. SP commented that there was a need in EBC for increased employment floorspace however, this was likely to be delivered by optimising existing sites. If any cross-boundary assistance was required, EBC would look to Runnymede & Spelthorne as opposed to EEBC & MVDC, as they are in the same Functional Economic Area (FEA). SP mentioned an Advice Note had been prepared by EBC on the local economy and our high streets in light of the emerging LP, NPPF & PPG, changing market trends and COVID-19.
- ***ACTION: EBC to circulate the Advice Note for information.***
- KT mentioned that EBC Members were responding to COVID-19 by wanting to see certain policies in the LP e.g. private residential amenity space for all dwellings (including flats), live-work units / set space in the home for home-working, increased fibre infrastructure. Such policies were already planned.
- SP mentioned that at the start for the LP preparation, a Scoping Statement on DtC issues and who EBC would need to engage was prepared and consulted on. It was known that other LPAs followed the example. Due to the change in Officers at EEBC and MVDC, it was agreed that SP would check whether EBC has ever provided a response to a similar exercise undertaken by EEBC & MVDC.
- ***ACTION: EBC to pull together a DtC Activity Log for the three LPAs for circulation and additional comments / inputs.***

3. Housing & Green Belt (all)

- PM provided an update as to the growth strategy for MVDC. The most recent Regulation 18 consultation stated that the Council were looking to meet need as Members believed that this was the only position available. However, whilst they are not looking to move away from the Standard Method, a review of the evidence base is taking place to see what changes could be made to the housing target if applied. PM confirmed that MVDC were updating their section of the SHMA looking at a breakdown of the Standard Method figure in terms of typologies – type, size & tenure. SP confirmed that EBC had just completed a similar exercise.
- VE stated that EEBC were looking to meet their housing need based on the Standard Method. KT raised that from discussions with previous EEBC Officers it was understood that a push for growth and seeking to create a vibrant borough for a younger and up-coming demographic had been the preferred growth strategy. It was queried whether this was still the case. VE confirmed that this was one of the points being discussed with Members over the summer to plan their way forward.

- SP & KT set out EBC's approach. That was, that the Standard Method figure was acknowledged in that that is what we should be meeting however, that our growth strategy will be based on our evidence base of what can be accommodated and that we are seeking to create sustainable places / place-making not, chasing numbers.
- Discussion moved to the latest ONS Household Projections and how, if applied, to the Standard Method this would significantly alter our housing target and ultimately our potential spatial strategies i.e. a reduced need to release GB to meet development needs. Each LPA raised concern as to the potential political pressure there will be to challenge the existing / emerging Standard Method that does not take account of the latest projections and that without clarity / certainty as to the use of the 2018 HH projections, LPs could stall.
- SP relayed information obtained from discussions with planning consultancies / HBF in that the changes to the Standard Method are likely to be based on large affordability up-lifts. KT added that the Government is very unlikely to move away from the 300,000 homes per annum target and that if the 2018 HH projections were used, the affordability uplift would counter-balance any impact they would have had.
- There was a consensus amongst Heads of Service that collectively we should seek the opportunity to meet with the new Chief Planning Officer at MHCLG (as developers had been) to have a general discussion re. the HH projections and their implications. PM raised that this needed to be approach from a pro-active / positive approach in that we are seeking clarification as to not delay our LPs as opposed to continuing to challenge housing numbers.
- ***ACTION: SP to draft a letter to the C.PO requesting a meeting / circulate to EEBC & MVDC for comment.***

4. Statement of Common Ground (all)

- It was agreed that the SoCG between the three authorities would form the principal agreement but that other SoCG will be required with neighbouring authorities and other DTC bodies specific to the strategic matters of each LPA.
- In regard to Kingston it was agreed that contact would be made to understand their position and how they may / may not feature in the SoCG.
- It was agreed that a draft SoCG should be ready for when the first LPA holds their Regulation 19 Draft Plan representation period.
- ***ACTIONS: SP to contact Kingston for a general discussion.***

5. Learning points from other Local Plan examinations (all)

- SP raised that following a discussion with Officers at Runnymede it was understood that they were seeking to commission a wider-GB review (area to be defined) as this work was not materialising from the LSS Part 2 as previously envisaged. It was noted that this would form

part of their evidence base for their next LP (immediate review required by the Inspector). The premises being that there are better / other options for amending the GB boundary outside of Runnymede. The evidence base would not give the ability to plan for other areas. It was agreed by the HoS that this was something to keep an eye on / see how the work progresses but not something to get involved with e.g. joint commissioning. It was queried how this would work in terms of DtC and whether it fits the spirit of joint-working.

- SP highlighted a few learning points from other LPAs EiPs:
 - In accordance with the NPPF, DtC comes first before the option of amending GB boundaries. Reference was made to EBC's DtC letter sent to all LPAs in the South East in January. The reason for going as wide as the S. East is that as our need is being generate from London, it could be met elsewhere providing those areas had the infrastructure connectivity back to London.
 - Other LPAs appear to be failing DtC as a result of a change in their growth strategy (often politically-led) and going from being able to meet need and then not. However, they have failed to go back and ask other LPAs whether they can meet the shortfall; instead progressing to Regulation 19 and onto Submission.
 - In the case of Chiltern & South Bucks EiP, it is known that Slough BC has objected on DtC grounds. The combined authorities have a constrained housing target due to GB and even with amendments / allocations are unable their requirement in full. In accordance with the NPPF they have determined that the benefits are outweighed by the harm. However, Slough BC has challenged this stating that they need to consider whether the additional unmet need of other LPAs in combination with their own would make a more compelling case to release GB.

6. Household Projections (2018) & the Standard Method (all)

- Discussed above.

7. Actions / next steps (all)

- Regular DtC Meetings to be set up (next one July / August). SP to coordinate with Jane Smith and WPP.

**Duty to Cooperate Meeting: Kingston & North East Surrey (Elmbridge, Ewell and Mole Valley)
Meeting**

Wednesday 14 October 2020

Attendees:

Kim Tagliarini, Elmbridge Borough Council
Suzanne Parkes, Elmbridge Borough Council
Viv Evans, Epsom & Ewell Borough Council
Wai-Po Poon, Epsom & Ewell Borough Council
Piers Mason, Mole Valley District Council
Luke Dickson, Mole Valley District Council
Jane Smith, Mole Valley District Council
Thomas Slid, Royal Borough of Kingston upon Thames
Tom Bright, Royal Borough of Kingston upon Thames

Apologies:

N/A

Agenda

1. Welcome & introductions (SP lead / all)
2. Actions from the last meeting (SP lead / all)
3. Local Plan position update (RBK, EEBC, MVDC, EBC):
 - Implications of the proposed changes to the standard method
 - Response to the White Paper – delay / pressing ahead
 - Up-coming key milestones
 - Overall timetable
 - Growth strategy
4. HMA Grouping (RBK)
 - RBK's position – London / Kingston & NE Surrey HMA
5. Statement of Common Ground (SP lead / all)
 - Agreed approach – one principle SoCG for the HMA
 - Content
 - Timings
 - Lead officers / input
6. Learning points from other Local Plan examinations (all)
7. Actions / next steps (all)
8. AOB (all)

Elmbridge Local Plan

Emerging Growth Strategy

Kingston & North East Surrey
Duty to Cooperate Meeting

Thursday 15 July 2021



Elmbridge
Borough Council

... bridging the communities ...

Elmbridge Local Plan

Local Housing Need & Supply

- Standard Method: 641 dpa
- 9,615 dwellings across the 15-year plan period
- Land Availability Assessment (LAA) 2021 (at 31.03.2021):

Supply	
Under Construction (at 31.03.21)	1,264
Planning permissions not yet implemented (at 31.03.21)	1,102
LAA sites (Years 1-5)	3,823
Small sites windfall allowance (1-4 units)	1,007
Total estimated capacity	7,196
Shortfall (estimated)	-2,419 (25%)

Elmbridge Local Plan

Options considered to meet need

- Regulation 18 Local Plan: Options Consultation (2019) identified 5 options for seeking to address our housing needs:
 1. Intensify urban area (9,345 dwellings)
 2. Optimise urban area and 3 areas of GB release (6,800 dwellings)
 3. Optimise urban area and large GB release (16,300 dwellings)
 4. Optimise urban area (5,300 dwellings)
 5. Optimise urban area and small areas of GB release (9,400 dwellings)
-

Elmbridge Local Plan

The emerging growth strategy

- Option 4 – Optimise the urban area.
 - However, we've sweated the urban area – optimising sites, and can now identify sufficient land to provide 75% of our housing need (up from 56%).
 - In accordance with the NPPF, the Council has sought to engage other LPAs to see if they can meet the shortfall (January 2020 & other discussions) as well as considering whether there are the exceptional circumstances to release GB using the Calverton Case.
 - However, the Council's position is that the harm outweighs the benefits.
-

Elmbridge Local Plan

Next steps

- Prepare a draft Local Plan (Regulation 19) and supporting evidence base around an urban strategy
 - DtC – formally write to other LPAs again
 - Seeking to undertake the Reg. 19 representation period in the Autumn
 - Argue the case at EiP
-

Mole Valley Local Plan

Housing Delivery and Supply



Regulation 19 Sources of Supply

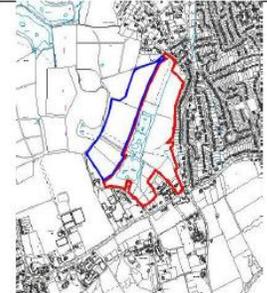
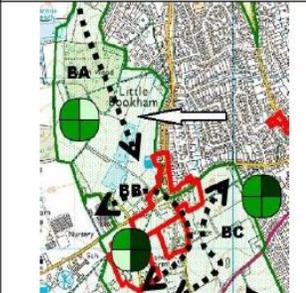
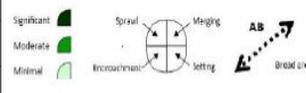
- Non Green Belt allocations: 1,694 units
- Existing permissions for sites 10 units and over: 477 units
- Existing permissions sites under 10 : 489 units
- Densification Uplift from policy changes: 180 units
- Estimate of sites under 10 for later plan years: 1,573 units
- Green Belt allocations: 1,622 units
- **Total** **6,035 units**
- **(353-355 dwellings pa over 17 years)**

What's changed since Regulation 18?

- The Regulation 18 plan promised 6,735 units (449dpa) over 15 years
- The Local Housing Need has gone up from 449dpa to 456spa
- The Mole Valley Green Belt Exceptional Circumstances Test has been brought into line with guidance and case law.
- Now releasing 20 sites from the Green Belt (out of 64 assessed)
- 4 major Green Belt sites now not released: Beare Green (480), south Bookham (164), east Leatherhead (550), central Leatherhead (150)
- Greater sweating of brownfield and a further Green Belt site release at Hookwood

What the Local Plan turns on?

Whether an Inspector buys Mole Valley's Exceptional Circumstances Test

Exceptional Circumstances assessment: 18-BK-008 – Land North West of Preston Farm, Bookham, KT23 4EF	
Site boundary (blue line denotes proposed country park)	Extract from Green Belt Review map
	
Total site area (ha)	27.4
Developable site area (ha)	10.0 approx
Potential yield	200
	
Part 1	
(a) Is the site Strategy Compliant? Is the site within a proposed settlement boundary?	Strategy Compliant. Extension to Category 2 settlement.
(b) Does the site selection methodology recommend consideration for Exceptional Circumstances?	Yes, the majority of the site falls in review area BA. A small area in the southern corner of the site is in review area BB and could be protected by reducing the size of the site. Impact on setting to be considered under (4).
(c) What is the nature and extent of the harm to the Green Belt in this location if the site is developed? (Calverton (iv))	Broad area BA performs minimally in terms of merging and moderately in terms of encroachment and sprawl. Broad area BB performs significantly in terms of merging, moderately in terms of sprawl and minimally in terms of encroachment.

	<p>Subject to amending the site boundary to exclude development within broad area BB, it is not considered that this loss of openness would have wider implications for the function of the Green Belt in this location.</p> <p>Planning permission has been granted for a new secondary school and 295 dwellings on land to the west, within Guildford Borough. The implications of this permission – particularly in relation to merging between Bookham and Effingham – have been considered and do not affect the scoring in the 2020 GBR. If implemented, there would be significant additional built development along the Lower Road frontage (area BB), but this area is already scored significantly in terms of merging, as noted above.</p> <p>The land immediately west of area BA would include playing fields and outdoor sports facilities, which have a degree of openness and are not considered incompatible with the moderate score for merging in this location.</p>
Part 2	
	Only continue to Part 2 if the answer to (2) is Yes.
(d) What is the impact on the setting of any historic town or heritage asset (in respect of purpose 4 of Green Belts)?	<p>There are a number of designated heritage assets that are close to the site and would be visible from it. In particular the development of the site has the potential to impact on the Little Bookham Conservation Area.</p> <p>As well as reducing the impact on merging, exclusion of development within broad area BB would help to avoid any detrimental impact on the setting of the informal cluster of buildings south west of the site (including Manor Farm, an early 18th century building, associated farm buildings and the large tithe barn, the Manor House School, another 18th century building, and the 12th century church).</p> <p>Subject to this safeguard, and an appropriate design approach, it is considered that the impact on the setting of heritage assets would be minimal.</p>
(e) To what extent can the consequent impacts on the Green Belt be ameliorated or reduced to the lowest reasonably practicable extent? (Calverton (v))	The main impact on the function of the Green Belt from this site can be achieved by reducing the site to the area to the north east of the lane immediately to the east of The Saddlery. The central ponds and woodland belt provide a sense of containment around the eastern part of the site. Limiting built development to the east of these features would reduce impact on encroachment, sprawl and merging. These measures would reduce harm to the lowest possible extent and make use of existing features to provide moderately strong defensible boundaries.
(f) Does the ecology evidence consider the site is ecologically suitable?	<p>Air quality impact on Habitats sites requires assessment, as the site capacity would exceed 100 dwellings.</p> <p>Part of the site is within 5km of the Thames Basin Heaths SPA and the remainder is within 7km and would exceed 50 dwellings; mitigation would be required but could be secured through appropriate SANGS provision, which is proposed on the western part of the site.</p> <p>The site is not within or adjacent to any nationally or locally designated sites. However, it is within walking distance of the Bookham Commons</p>

	<p>SSSI. Mitigation measures may be required. Natural England have not raised any site-specific concerns through the Regulation 18 consultation process.</p> <p>There are areas of Priority Habitat (woodland) and pond within the site, which would be retained. There are areas of ancient woodland adjacent to the proposed country park.</p> <p>A. Extended Phase 1 Habitat Survey identifies that areas of the site provide potential habitat for a range of protected and notable species. However, appropriate avoidance and mitigation methods could be implemented to avoid any significant effects on species and ensure legal compliance. Biodiversity net gain appears achievable, in line with policy requirements.</p> <p>The proposed country park on the western part of the site is suitable in principle as SANG, subject to detailed implementation and management arrangements. There is both potential and a clear intention to deliver biodiversity gains, which can be secured for the long term through a Landscape and Ecology Management Plan.</p>
(g) Does the landscape evidence consider the site has capacity to accommodate development in the landscape?	<p>Landscape capacity is considered in the site promoter's deliverability evidence. The site is contained by existing residential development to the north, east and south, which significantly limits public views into the area proposed for development.</p> <p>The central belt of ponds and surrounding vegetation provides visual containment to the west. This would also significantly limit views of the developed area from the public footpath network, to the west.</p> <p>There are some limited public views into the site from Lower Road through gaps between existing dwellings. Visual impact would be reduced by excluding development in area BB (see section 3).</p>
Locally Derived Considerations	
(h) Does the Open Space, Sport and Recreation Facilities Assessment consider that the site is surplus provision or can facilities be re-provided elsewhere?	The site does not have any sports facilities or public open space located within it. Historically, there has been a riding school on the site, but there is no evidence to suggest a deficiency in equestrian facilities in the District and the stables and other facilities have been demolished. There is also a history of angling on the site, which could potentially be accommodated within proposals for the Country Park, subject to appropriate ecological safeguards.
(i) Does the Sustainability Appraisal consider that the site is a sustainable location?	Yes. At a strategic level, the SA supports development on the edge of Category 2 settlement as being a sustainable option.
(j) Is the site sequentially preferred? Would development of the site increase flood risk or impact on water quality?	<p>The site is within Flood Zone 1.</p> <p>Parts of the site are at risk of surface water flooding.</p> <p>As set out in the January 2020 Sequential Test topic paper, avoiding all sites which include areas at risk of surface water flooding is not considered feasible. But the issue has been considered through the</p>

	Level 2 Strategic Flood Risk Assessment. This confirms that flooding could be satisfactorily addressed on this site, through a sustainable urban drainage approach and/or a sequential approach to the location development within the site.
(k) Does the site provide a community benefit in terms of infrastructure?	<p>The site will provide 9.35ha of open space (although much are ponds) along with 10.27ha of country park. This will be a significant community benefit.</p> <p>The site promoter undertakes to provide a new flexible co-working space or health care facility in consultation with the community.</p>
(l) Does the site provide an opportunity for reducing the impacts of climate change through decentralised heat and power, carbon offsetting or zero carbon homes, or improvements to biodiversity and green infrastructure?	<p>The ponded areas provide opportunities for a SuDS approach which also supports biodiversity enhancements. This is given limited weight.</p> <p>The scheme is likely to be capable of increasing biodiversity by protecting the country park land from agriculture and securing it's long term management as SANGS. This is given moderate weight.</p> <p>The site promoter undertakes that all new homes will be zero carbon by 2025. There have been no proposals for carbon offsetting or decentralised heat and power.</p>
(m) Can any lost public access to countryside be replaced or is access increased?	Whilst no existing access would be lost the site provides opportunity for increased public access to the ponds and the area edged blue as part of a country park. Linkages with the wider public RoW network and the built up area can be provided. This is given modest weight as a benefit.
Based on the information on this form, are there exceptional circumstances that would outweigh the harm to the Green Belt and justify Green Belt release?	
<p>This site would be a modest extension to Bookham and would provide a moderate amount of housing including gypsy and traveller pitches to meet M/DC's policy requirements.</p> <p>Subject to restricting the area of the site used for built development there would not be significant harm to the purposes of the Green Belt or openness.</p> <p>The site has the ability to provide biodiversity net gain and SANG. It is considered that it would be well contained in the landscape. The site would provide a significant community benefit, moderate benefit in terms of public access to the countryside and limited improvements to reducing climate change.</p> <p>Having weighed up the issues outlined above, it is considered that this site exhibits Exceptional Circumstances justifying an amendment to the Green Belt boundary.</p>	

Appendix 2 Emails to Landowners and responses

E-mail to the Environment Agency

RE: Land Ownership/ Duty to Cooperate query



James, Veronica <veronica.james@environment-agency.gov.uk>
To: Zoe Belton
Cc: Suzanne Parkes



Tue 10/05/2022 12:10

Follow up. Start by 11 May 2022. Due by 11 May 2022.
You forwarded this message on 19/10/2023 14:15.

Subject: Land Ownership/ Duty to Cooperate query

Warning: The sender of this message could not be validated. Please use caution when opening any message content such as attachments or links

Dear Ms James,

Elmbridge Borough Council is currently in the process of preparing a new Local Plan, which will set out a vision for the borough over the next 15 years and establish planning policies that will guide future development.

A Boat Dweller Accommodation Assessment has been undertaken and provides the evidence to enable the council to comply with their requirements towards Boat Dwellers under the National Planning Policy Framework (NPPF) 2021 and the Housing and Planning Act 2016.

The assessment identifies a need for 10 licensed permanent moorings.

As part of the duty to cooperate, we are contacting you to enquire whether there is any land within your ownership along the River Thames in Elmbridge or neighbouring boroughs that could be made available to accommodate 10 permanent residential moorings.

Please could you reply to this e-mail by the 10th May 2022.

If you have any queries regarding any aspect of this work, please do not hesitate to contact us using the contact details below. We appreciate your time and assistance with this work.

Kind Regards,

Zoe

Zoe Belton | Principal Planning Policy Officer | Policy and Strategy
zbelton@elmbridge.gov.uk | 01372 474830 | elmbridge.gov.uk
Elmbridge Borough Council, Civic Centre, High Street, Esher, Surrey, KT10 9SD

Shaping Elmbridge
A new Local Plan



Find out more: elmbridge.gov.uk/planningpolicy

E-mail response from the Environment Agency

RE: Land Ownership/ Duty to Cooperate query

 James, Veronica <veronica.james@environment-agency.gov.uk>
To: Zoe Belton
Cc: Suzanne Parkes

 Follow up. Start by 11 May 2022. Due by 11 May 2022.
You forwarded this message on 19/10/2023 14:15.

[External email >](#)
[First time sender >](#)
[Discusses sensitive information >](#)

Dear Zoe,

Thank you for your email dated 19 April 2022 relating to the Boat Dweller Accommodation Assessment your Borough Council has carried out and the enquiry as to whether we have land available for 10 permanent residential moorings on the River Thames. I have consulted the relevant internal departments and can confirm that currently we do not have land within our ownership available for permanent residential moorings on the River Thames in your Borough or neighbouring areas. If in the future we undertake a review of our land assets and the situation changes we will get in touch and update you.

If you have any questions about this please do not hesitate to contact me.

Kind regards

Veronica

Veronica James BSc DipUP MRTPI
Planning Specialist
Area Sustainable Places Team
02030259786
veronica.james@environment-agency.gov.uk

  Reply  Reply All  Forward

Tue 10/05/2022 1

E-mail sent to Elmbridge Borough Council Assets and Estates Department

From: Zoe Belton <zbelton@elmbridge.gov.uk>
Sent: 19 April 2022 14:13
To: Stuart La Frenais <SLaFrenais@elmbridge.gov.uk>
Cc: Suzanne Parkes <SParkes@elmbridge.gov.uk>; Ian Burrows <iburrows@elmbridge.gov.uk>
Subject: Land Availability

Dear Stuart,

As you know, we are in the process of preparing a new Local Plan, which will set out a vision for the borough over the next 15 years and establishes planning policies that will guide future development.

A Boat Dweller Accommodation Assessment has been undertaken and provides the evidence to enable the council to comply with their requirements towards Boat Dwellers under the National Planning Policy Framework (NPPF) 2021 and the Housing and Planning Act 2016.

The assessment identifies a need for 10 licensed permanent moorings.

We are contacting you as a landowner of land along the River Thames in the borough to find out whether there is any land available to accommodate 10 permanent residential moorings.

Please could you reply to this e-mail by the 10 May 2022.

We appreciate your time and assistance with this work.

Kind Regards,

Zoe

Zoe Belton | Principal Planning Policy Officer | Policy and Strategy
zbelton@elmbridge.gov.uk | 01372 474830 | elmbridge.gov.uk
Elmbridge Borough Council, Civic Centre, High Street, Esher, Surrey, KT10 9SD

Shaping Elmbridge
A new Local Plan



Find out more: elmbridge.gov.uk/planningpolicy

E-mail response from Elmbridge Borough Council Assets and Estates Department

RE: Land Availability

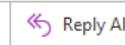


Michael Downey

To: Zoe Belton

Cc: Ian Burrows; Stuart La Frenais

 You replied to this message on 13/05/2022 08:17.



Thu 12/05/2022 16:40

Zoe

Apologies for going over the deadline. I was away last week and have a number of matters to resolve.

As regards permanent moorings sites, I'm unaware of any sites along the navigable rivers which the Council owns and which could be suitable for permanent residential mooring sites.

As a Council, we do not currently actively manage any transient moorings which could be converted. I am aware that there are some informal mooring posts along the River Thames, but these are not adjacent to appropriate facilities. Therefore any Council ownership along the river would have to be adapted at significant cost. Furthermore, licencing from the Environment Agency would be required which in itself could lead to unsustainable costs both in short, medium and long term.

As regards the majority of Council ownership adjacent to the river, these are used principally in support of leisure users. Therefore, providing for residential moorings in close proximity, could increase the potential for conflict between user groups.

Whilst it is appreciated that this particular need has been identified, it is reasonable to conclude that there are commercial operators who will be more suitably placed to provide a managed facility.

In addition to the above, it should be acknowledged that the Environment Agency' River Thames project is ongoing, which may alter the river frontage of the riparian ownerships. Until such time as this project is complete, it would not be advisable to undertake any form of capital works along the River, without first fully appreciating the flood defence implications for any sites which you may allocate.

Hopefully this doesn't present as obstructive to the goal which you're seeking to achieve. It is not for me to say that any site cannot be adapted. It is only for me to advise that at the present time, designation of sites would benefit from detailed engagement with the Environment Agency and their Lower Thames project team.

Please let me know if you wish to have a follow up conversation to this.

Thank you

Michael

Tel: 07938 522193

Asset Management & Property Services
Elmbridge Borough Council

E-mail sent to Surrey County Council and all neighbouring Local Planning authorities

From: Zoe Belton

Sent: 20 April 2022 10:15

To: sue.janota@surreycc.gov.uk

Cc: Suzanne Parkes <SParkes@elmbridge.gov.uk>

Subject: Land Ownership and duty to cooperate query

Dear Sue Janota,

Elmbridge Borough Council is currently in the process of preparing a new Local Plan, which will set out a vision for the borough over the next 15 years and establish planning policies that will guide future development.

A Boat Dweller Accommodation Assessment has been undertaken and provides the evidence to enable the council to comply with their requirements towards Boat Dwellers under the National Planning Policy Framework (NPPF) 2021 and the Housing and Planning Act 2016.

The assessment identifies a need for 10 licensed permanent moorings.

As part of the duty to cooperate, we are contacting you to enquire whether there is any land within your ownership along the River Thames in Elmbridge or neighbouring boroughs that could be made available to accommodate 10 permanent residential moorings.

Please could you reply to this e-mail by the 10th May 2022.

If you have any queries regarding any aspect of this work, please do not hesitate to contact me using the contact details below. We appreciate your time and assistance with this work.

Kind Regards,

Zoe

Zoe Belton | Principal Planning Policy Officer | Policy and Strategy

zbelton@elmbridge.gov.uk | 01372 474830 | elmbridge.gov.uk

Elmbridge Borough Council, Civic Centre, High Street, Esher, Surrey, KT10 9SD

Shaping Elmbridge
A new Local Plan



Find out more: elmbridge.gov.uk/planningpolicy

E-mail response from Surrey County Council

RE: Land Ownership and duty to cooperate query



Sue Janota <sue.janota@surreycc.gov.uk>

To: Zoe Belton

Cc: Suzanne Parkes; Judith Jenkins

 You replied to this message on 19/05/2022 08:56.

 External email >

 Discusses sensitive information >



Wed 18/05/2022 20:23

Dear Zoe

I have been in contact with colleagues in the county council's land and property service who advise that they are not aware of any appropriate opportunities in terms of SCC's landholdings to accommodate permanent residential moorings. Currently, there is also a particular need to avoid compromising other SCC needs/service requirements affecting identified SCC owned riverside opportunities, for example land that could be part of the RTS flood defence scheme.

However, if Elmbridge BC identifies any particular SCC site opportunities, then our land and property service would be happy to consider them and respond on a case by case basis.

Kind regards

Sue Janota

Spatial Planning and Policy Manager
Environment, Transport & Infrastructure Directorate
Surrey County Council
Quadrant Court
35 Guildford Road
Woking
GU22 7QQ

E-mail response from Kingston upon Thames Borough Council

Re: Land ownership / Duty to cooperate query

 Tom Bright <tom.bright@kingston.gov.uk>
To: Zoe Belton
Cc: Suzanne Parkes; Thomas Sild

 Follow up. Start by 11 May 2022. Due by 11 May 2022.
You replied to this message on 11/05/2022 09:02.
If there are problems with how this message is displayed, click here to view it in a web browser.

 External email >

 Discusses sensitive information >

Dear Zoe,

Thank you for contacting us as part of the duty to cooperate.

In relation to Elmbridge's identified need for 10 licensed permanent moorings for boat dwellers, we are not aware of any land owned by Kingston Council that could be available for additional permanent moorings, therefore we are unable to assist in meeting this identified need.

Should you have any further queries, please don't hesitate to contact us.

Kind Regards,

On Wed, 20 Apr 2022 at 10:21, Zoe Belton <zbelton@elmbridge.gov.uk> wrote:

Dear Tom,

Elmbridge Borough Council is currently in the process of preparing a new Local Plan, which will set out a vision for the borough over the next 15 years and establish planning policies that will guide future development.

A Boat Dweller Accommodation Assessment has been undertaken and provides the evidence to enable the council to comply with their requirements towards Boat Dwellers under the National Planning Policy Framework (NPPF) 2021 and the Housing and Planning Act 2016.

The assessment identifies a need for 10 licensed permanent moorings.

As part of the duty to cooperate, we are contacting you to enquire whether there is any publicly owned land along the River Thames within your borough / area of responsibility that could be available for accommodating 10 permanent residential moorings and whether you would be willing to assist Elmbridge Borough Council in meeting this identified need.

Please could you reply to this letter by the 10 May 2022.

If you have any queries regarding any aspect of this work, please do not hesitate to contact me using the contact details below. We appreciate your time and assistance with this work.

Kind Regards,

Zoe

Zoe Belton | Principal Planning Policy Officer | Policy and Strategy

E-mail response from Richmond and Wandsworth Council

RE: Land ownership / duty to cooperate query



Capper, Joanne <Joanne.Capper@richmondandwandsworth.gov.uk>
To: Zoe Belton

  Reply  Reply All  Forward 

Thu 12/05/2022 16:00

 You replied to this message on 12/05/2022 16:02.

 External email >

 First time sender >

 Discusses sensitive information >

Official

Dear Zoe,

Apologies I had a number of matters to get back to Elmbridge colleagues on, and in the end I wrapped up in an email to Suzanne – but only sent yesterday. This included the following in response to you.

We did receive the request, in an email from Zoe Belton on 20/4/2022, in respect of your Boat Dweller Accommodation Assessment. Noting the need you have identified for 10 licensed permanent moorings, however we are not aware of any publicly owned land along the River Thames that could be available for accommodating 10 permanent residential moorings.

The Local Plan includes a presumption against new proposals for houseboats (Policy LP19). Within Richmond borough, the River Thames is designated Metropolitan Open Land (MOL) and therefore the character and openness of the river are safeguarded from inappropriate uses. The London Plan 2021 further provides the policy framework in Policies SI 16 and Policy SI 17, and the issue was considered at the Examination in Public (see paragraphs 537 and 538 in the [Panel Report 2019](#)). Paragraph 9.16.3 refers to the London Mooring Strategy, produced by the Canal and River Trust, which has identified zones for potential additional moorings elsewhere in London.

I hope that is helpful, any queries please let me know.

Many thanks,

Joanne Capper

Principal Planner (Richmond)

020 8891 7321

E-mail response from Spelthorne Borough Council

RE: Land ownership/ duty to cooperate query



Biggs, Ann <A.Biggs@spelthorne.gov.uk>

To: Zoe Belton

Cc: Suzanne Parkes; Robinson, Jane

 Encrypt-Only - This message is encrypted. Recipients can't remove encryption.
Permission granted by: A.Biggs@spelthorne.gov.uk
You replied to this message on 27/05/2022 10:44.



 Reply

 Reply All

 Forward



Thu 26/05/2022 13:23

Hi Zoe

We have explored your request with our Assets and Neighbourhood Services teams and can advise as follows.

We own a number of riverside landholdings adjacent to the Thames. There have been a number of issues in the past with moorings generally and residential ones in particular (including enforcement action either from Planning or Neighbourhood Services). There are also a range of complexities around access to such sites, landing stages and the facilities that need to be provided for such residential moorings. The view would be that we would find it very difficult to accommodate any of our own demand let alone from an adjoining borough, so don't believe we are in a position to assist.

I'm sorry we are not able to help on this occasion.

Kind regards

Ann

Ann Biggs LLB (Hons) MA MRTPI

Strategic Planning Manager

Spelthorne Borough Council

(direct line) 01784 448619

For more information about how we store and retain your personal data, please look at our [Strategic Planning privacy notice](#) and [Strategic Planning retention schedule](#)

**Appendix 3 Appeal Decision - Mooring adjacent towpath Pioneers Joy West
Molesey NW Cherry Orchard Gardens Surrey KT8 1QY**



Appeal Decisions

Hearing held on 15 March 2022

Site visits made on 14 and 16 March 2022

by R W Allen B.Sc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2022

Appeal A Ref: APP/K3605/W/21/3266924

Norman, Northwest of Cherry Orchard Gardens, West Molesey, Surrey KT8 1QY

- 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 Mr Paul Thatcher against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1888, dated 30 July 2020, was refused by notice dated 18 December 2020.
 - The development proposed is retrospective application for the mooring of a pleasure craft.
-

Appeal B Ref: APP/K3605/W/21/3266928

Pioneers Joy, Northwest of Cherry Orchard Gardens, West Molesey, Surrey KT8 1QY

- 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 Mr and Mrs J Casey against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1561, dated 30 June 2020, was refused by notice dated 18 December 2020.
 - The development proposed is retrospective application for a residential mooring of a houseboat.
-

Appeal C Ref: APP/K3605/W/21/3266934

Water Buffel, The Old Wharf, Northwest of Cherry Orchard Gardens, West Molesey, Surrey, KT8 1QY

- 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 Mr F Kastrati against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2060, dated 18 August 2020, was refused by notice dated 18 December 2020.
 - The development proposed is retrospective application for a residential mooring of a houseboat.
-

Appeal D Ref: APP/K3605/W/21/3266936

Midnight Rambler, The Old Wharf, Northwest of Cherry Orchard Gardens, West Molesey, Surrey, KT8 1QY

- 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 Mr S Cross against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2076, dated 18 August 2020, was refused by notice dated 18 December 2020.
-

- The development proposed is retrospective application for a residential mooring of a houseboat.
-

Appeal E Ref: APP/K3605/W/21/3266938

Skylark/MsDeHoop, The Old Wharf, Northwest of Cherry Orchard Gardens, West Molesey, Surrey, KT8 1QY

- 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 Mr E Gjika against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2061, dated 18 August 2020, was refused by notice dated 18 December 2020.
 - The development proposed is retrospective application for a residential mooring of a houseboat.
-

Decisions

1. Appeal E is allowed, and planning permission is granted for a temporary period for retrospective application for a residential mooring of a houseboat known as Skylark/MsdeHoop, The Old Wharf, Northwest of Cherry Orchard Gardens, West Molesey, Surrey KT8 1QY in accordance with the terms of the application, Ref 2020/2061, dated 18 August 2020, subject to the conditions set out in the Schedule of Conditions at the end of this decision.
2. Appeals A, B, C, D are dismissed.

Preliminary Matters

3. I made a ruling at the Hearing that the objectionable point on whether the appeals, or parts thereof, constitute a material change of use as a matter of fact and as such whether planning permission is required, is not a matter before me. This is because the appellants, irrespective of their views on materiality, had nonetheless applied for planning permission, and these appeals and thus my remit is to consider and determine only the merits of the reasons for refusal, and not to question the lawfulness or otherwise of the uses themselves. I informed the parties that I would not dwell on these matters further in my decision, and in so doing this will not come as a surprise to them.
4. For Appeals B, C, D and E, I have used the description of the proposals as cited by the Council in the respective refusal notices, as I find it better reflects the appeals before me. The parties dispute the description for the proposal for Appeal A. Notwithstanding the Council's concerns on the characteristics of, and thus the likely use of the vessel, in my judgement the description of the proposal should reflect what the appellant is seeking consent for. I have therefore used the appellant's description in the banner heading above, albeit slightly amended. I deal with the matter at hand in the decision below.
5. I concur with the parties' position in the combined Statement of Common Ground that matters concerning reason for refusal nos.5 and 6 in respect of waste and recycling facilities, and the provision of cycle parking, can be controlled by suitably worded planning conditions. I have subsequently not considered these matters any further in my decision.

Main Issues

6. The main issues are:

- Whether the proposals amount to inappropriate development in the Green Belt;
- the effects on openness and any other harm;
- the other considerations; and
- whether 'very special circumstances' exist to outweigh the harm from inappropriateness, openness and any other harm.

Reasons

Whether inappropriate development in the Green Belt

7. Common ground exists that each appeal site lies within the Metropolitan Green Belt. The Framework¹ states that great importance is attached to Green Belts; that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and that the essential characteristics of Green Belts are their openness and permanence². Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances³. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations⁴. Local Plan policy DM17 is broadly consistent with the Framework in this regard.
8. The Framework identifies exceptions where development may be not inappropriate, and pertinent to the appeals is the content of paragraph 150(e). This states "*material changes in the use of land (such as changes of use of outdoor sport or recreation, or for cemeteries and burial grounds)*" are not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it.
9. I agree with the appellants that the bracket list contained within paragraph 150(e) is neither closed nor exhaustive. Because of the inclusion of the words "such as", and the clear commonality in the examples given in that they all require an outdoor location, I find it perfectly feasible that the mooring of boats could form part of this list. However, I stop short by some distance that the said list extends to the permitting of permanent residential moorings.
10. The Framework's Paragraph 149 becomes the starting point for proposals affecting the Green Belt. It considers the construction of new buildings should be viewed as inappropriate in the Green Belt. It goes on to set out exceptions, and in the case of residential development this is limited to the infilling in villages⁵ or to limited affordable housing⁶, or the redevelopment of previously developed land⁷.
11. I accept both parties' positions that the appeals do not constitute buildings. However, the paragraph is nonetheless relevant to the determination of the

¹ National Planning Policy Framework 2021

² Paragraph 137

³ Paragraph 147

⁴ Paragraph 148

⁵ Paragraph 149 (e)

⁶ Paragraph 149 (f)

⁷ Paragraph 149 (g)

appeals because it provides the policy objective on restrictions on residential uses in the Green Belt which I find cannot be set aside, particularly given that Appeals B, C, D and E seek a permanent residential use. As permanent residential moorings do not form part of the exceptions list in paragraph 149, it must in the first instance be deemed as inappropriate development in the Green Belt.

12. In my judgement, paragraph 150 does not come to the appellants' rescue. The paragraph opens with "*certain other forms of development...*", and as paragraph 149 has already considered where new residential development and uses may be not inappropriate, it stands to reason that paragraph 150 cannot be seeking to reintroduce it and permit new residential development or uses, even for permanent residential moorings, through a policy back door via subparagraph (e). In any event, paragraph 150 is predicated on the preservation of openness and, as I set out below, this would not be the case here.
13. Appeal A is a slightly different case because a permanent residential mooring is not sought by the appellant. However, I must first establish whether Appeal A is indeed a pleasure craft as stated by the appellant; or is for all intense and purposes a residential mooring, so as to consider whether appropriate conditions restricting residential use would fairly and reasonably relate to the development.
14. At the Hearing, Mr Thatcher admitted that he had previously slept on the boat for an extended time during the Covid-19 pandemic period. He explained that this was because he was undertaking renovations including insulation and re-wiring works, which I am told remain incomplete. The purpose of these works was to make the boat habitable primarily for the appellant's future use for travelling, although he would return to the appeal site which would be its permanent base. Mr Thatcher also confirmed the boat contains the facilities necessary for residential occupation including sleeping areas, washing facilities and a kitchen/cooking area.
15. Little evidence is before me as to what the appellant identifies as the differences between the boat as a pleasure craft from that as a permanent residence, other than the fact the appellant is currently residing elsewhere. From the evidence and my observations, the appeal boat is of a size similar to Appeals B, C, D and E which all function as residences. The appellant has accepted that his boat is capable of functioning as a residence, even if conditions onboard are at the present time less than desirable. It also notably dwarfs those boats I observed moored further along the riverbank to the east, which are considerably smaller in size and which are, in my mind, obvious pleasure crafts.
16. Given the facilities onboard and the future intended use, I find that Appeal A is more obviously aligned to a residential use; and it is not a pleasure craft. It would not be appropriate to impose restrictive conditions as such. Accordingly, I find that Appeal A is also not supported by paragraph 150(e) of the Framework.
17. In summary, Appeals A to E are inappropriate developments in the Green Belt. They are contrary to Local Plan policy DM17 and with the relevant parts of the Framework, details of which I have discussed above. In accordance with the

Framework, I attach significant weight to the harm by reason of inappropriateness.

Effect on openness

18. Looking panoramically, I observed a large number of boats of varying sizes moored along the banks of the River Thames, which suggests boat moorings do form part of the wider character of the area. I walked a considerable section of the towpath in both directions of the appeal sites, and in so doing I observed a distinct character change. The area to the east, at the point where the towpath can be accessed from Cherry Orchard Gardens, the character is typically suburban. Houses adorn the southern side of the towpath, and because of their size the boats along the river here appeared to be pleasure crafts only and connected to their associated dwellings opposite, although I do not know this for certain. The banking contained formalised steps leading to various sized decking areas.
19. At the point in which the built form fronting Cherry Orchard Gardens ends and where it adjoins the Molesey Reservoirs, the character of the riverbank becomes distinctly rural. The riverbank is open in character though interspersed with shrub planting. It is largely uncluttered with vessels, and those moorings that do exist are somewhat spaced out and the mooring areas are less formalised. I did not find that the feeling of rurality was disrupted by the reservoir boundary wall on the other side of the towpath.
20. I accept the thrust of the argument that, as Appeals C, D and E are moored against a formalised section of the riverbank, known as The Old Wharf, the presence of boats would be expected in this location. However, I find this is true only insofar as they are not permanent residences, which in my mind take on a very different appearance.
21. Take Appeal D for instance. Here, the appellant has enclosed his section of The Old Wharf adjoining his moorings. The enclosed land includes various paraphernalia comprising what appeared to be storage wrapped in tarpaulin, a hand truck, a bicycle, and several planters. The area in front of Appeal C was not too dissimilar. While Appeal E has not enclosed the land adjacent to its moorings, I did observe areas of storage on The Old Wharf. None of the above I would expect to see associated with boats which are only temporarily moored here.
22. Contrast the above with the evidence advanced by the Environment Agency (EA) on the previous use of The Old Wharf, which no party disputed at the Hearing. Here, the EA states that it was previously used as a coal wharf for the transportation of fuel to power machinery at the Molesey Reservoirs which housed a steam powered pumping station. Thus, in its heyday and even when surplus to requirements, boats would have come and gone on a regular occurrence, with the wharf itself remaining open and uncluttered.
23. I am thus persuaded that the previous use of The Old Wharf bears little resemblance to the current uses of Appeals C, D and E. Accordingly, the presence of the permanent residential moorings for Appeals C, D and E, taken with its enclosure and domestication of the wharf within private defensible spaces has undoubtedly eroded openness of the Green Belt.

24. Appeals A and B are moored against a naturalised section of the river and a short distance away from Appeals C, D and E. At the Hearing and in respect to Appeal B, Mr & Mrs Casey were at pains to point out that there is no domestic paraphernalia on the stretch of the bank adjacent to their boat. I have no reason to specifically dispute this assertion, albeit that I could not verify this as the land in question is largely hidden from view from the towpath by shrub planting.
25. However, the appellants have physically enclosed the land at the point in which access to it would have been possible. This, and the presence of the boat in this naturalised section of the river where ordinarily, it would have been free of any structures or boats, is sufficient for me to find harm to openness of the Green Belt. I draw the same conclusions for similar reasons for Appeal A.
26. The appellants assert that little difference exists visually between the appeals, and those boats which are permitted under other legislation to be moored along the riverbank for a 24-hour period, particularly if the temporary moorings are in constant use. While there may be some truth in respect to the vessels itself, the enclosures and domestication of the riverbank associated with the permanent moorings persuades me that the differences are significant. In any event, I heard little evidence that such temporary moorings would be constant, and that there would be periods of time when the riverbank would be open.
27. Appeals A to E by reason of their permanence, enclosure of the land, and the presence of domestic paraphernalia and storage have eroded and thus harmed the openness of the Green Belt. They would not accord with Local Plan policy DM17 or with the relevant parts of the Framework, details of which I have discussed above.

Any other harm

a) Flood risk

28. I am informed that each appeal site lies within Flood Zone 3B, the highest category for flood risk. The EA states that the riverbank here is subject to an annual probability of flooding of between 5% to 20% every year. Core Strategy⁸ policy CS26 states the Council will seek to reduce flood risk and that development must be located in appropriate areas and which accommodate flood resistance and resilience measures. In line with the Framework, the policy requires the submissions of a sequential followed by an exception test and a flood risk assessment where new development is proposed in these areas. None of the above has been undertaken by any appellant.
29. The appellants' say firstly that the appeals are water-compatible uses and accordingly are exempt from a flood risk assessment, and secondly, the appellants and indeed other river users and dwellers would know what to do in the event of a flood. I have no doubt that the latter is true; but I find that this is somewhat missing the point. While flooding concerns in respect to the boats themselves are less of an issue largely because they float, I find that understanding the effect of flooding on the riverbank and towpath, and whether and what specific mitigation measures may be necessary and appropriate for evacuation, are critical to the determination of the appeals.

⁸ Elmbridge Core Strategy July 2011

30. I have no obvious reason to disagree with the evidence of the EA and the Council that a flood risk assessment would be required even for water-compatible development for the reasons outlined above. That the appellants have not advanced evidence in this manner means that I cannot conclude with any degree of certainty that flood risk matters are adequately known and understood. Thus, the appeals must be judged as being harmful in this regard.
31. Therefore, I conclude that Appeals A to E do not comply with Core Strategy policy CS26, details of which I have given above. It would also not accord with the relevant parts of the Framework. I also find conflict against Local Plan policy DM13, which the Council does not cite in its reason for refusal, but which requires riverside development and uses to be protected against flood risk.

b) Ecology

32. The parties informed me that while each appeal site is not located in an area designated for ecology, the River Thames is a designated Site of Nature Conservation Interest; and the Molesey Reservoirs are Sites of Special Scientific Interest.
33. The appellants' ecology report, which was submitted as part of the appeals in an attempt to overcome the associated reason for refusal, identifies that the area for each appeal site contains little ecological value, and thus no mitigation is required. The Council does not dispute these findings and I likewise have no reason to disagree. The parties dispute the extent to which the ecology report should have surveyed, with the appellants arguing that because of the findings of the immediate area, there is no requirement or need to survey the effect on the surrounding designated areas. I disagree.
34. Core Strategy policies CS12 and CS15, and Local Plan policies DM5 and DM21 collectively require the conservation and enhancement of biodiversity by protecting and seeking to improve all sites designated for their biodiversity importance, woodland management and habitats and wildlife. In particular, Local Plan policy DM21 also states that development affecting locally designated sites of biodiversity importance or sites falling outside these that support national priority habitats or priority species will not be permitted.
35. Without undertaking such survey information of the wider area, it cannot be known whether there would be any such effect on the designated sites. Indeed, it does not follow that the absence of any ecological effect in the immediacy of the appeal sites means no wider effects are possible, and I heard little evidence to persuade me otherwise.
36. Again, I cannot conclude with any degree of certainty that the permanent presence of Appeals A to E would not affect biodiversity within the nearby designated sites and accordingly, whether mitigation is necessary and deliverable. I am left with little option but to take a precautionary approach and find Appeals A to E would not accord with Core Strategy Policies CS12 and CS15 and Local Plan policies DM5 and DM21, details of which I have given above. I also find conflict against Local Plan policy DM13, which the Council does not cite in its reason for refusal, but which requires riverside development and uses to protect ecology.

c) Character and appearance

37. I have discussed above my findings on the character of the area. I accept that boat moorings, taken by themselves, would not generally appear out of place. However, because this part of the river is rural in character, I do not find it unreasonable for users of the towpath to expect this section of the river to be open, and visually free of structures.
38. The presence of the boats and the enclosure of the riverbank in respect to all appeals, taken with the general domestication of the land in relation to Appeals C, D and E are sufficient for me to find that the character and appearance of the area has been harmed by the appeal proposals.
39. They would therefore not accord with Local Plan policies DM2 and DM13. Collectively, these policies require proposals to achieve high quality design which demonstrates environmental awareness and an understanding of local character, and to reflect and respect the riverside outlook and location and to retain land free of development.
40. The Council is now also relying on Local Plan⁹ policy DM22 to support its reason for refusal for all appeals in this regard. However, this policy relates only to recreational use of the waterways and does not specifically set character and appearance as a matter on which the uses would need to be judged against. Accordingly, I do not find it relevant to the determination of the appeals in this regard.

d) Access and amenity space

41. The Council also cites loss of amenity space as an objectionable matter. Here, the Council opines that the presence of Appeals A to E have restricted access to the river, to the detriment to users' reasonable enjoyment of the river. Undoubtedly this has occurred, as access from The Old Wharf and elements of the naturalised bank now find themselves enclosed.
42. However, I am not persuaded that there has been a significant detrimental effect in this regard, as there remained considerable areas of access. Moreover, I am not wholly persuaded that, in relation to Appeals A and B, the areas now occupied by the boats and their moorings would have been readily accessible anyway having regard to the screening and planting in those areas, some of which and according to Mr & Mrs Casey, were removed to facilitate the moorings. Therefore, while I accept harm has occurred in this matter, I am not persuaded that it is of significant level to justify a dismissal of the appeals on this matter alone.
43. Accordingly, I do not find that Appeals A to E have, individually and collectively, significantly harmed loss of amenity space and access to the river for the identified purposes. The proposals accord with Local Plan policies DM20 and DM22. These require open spaces to be protected and not to be built on, to retain facilities which contribute to the enjoyment of and access to the river, and for development not to result in the loss of facilities and public access that contribute to the river enjoyment.

⁹ Elmbridge Development Management Plan April 2015

e) The principle of the proposal

44. Local Plan policy DM13 permits development and uses by or at the riverside subject to six criteria. The appellant states that none within this policy or Core Strategy policy CS12, which is broadly consistent, prohibit the mooring of boats and indeed it would comply with criterion (d) in respect to protecting and promoting the history and heritage landscape. I concur.
45. However, I find that the policy must be read as a whole. The general thrust of the policy is not to be prohibitive to new development but to ensure the overall character and appearance is maintained. Of particular note is wording contained within criterion (a) which requires a strip of land to be retained free of development to maintain the open character of the riverside. I do not find that this means the towpath, and as such the use of land for storage and/or enclosure of the respective elements of the riverside bank by the appellants conflicts with this element of the policy alone.
46. Given that criteria (c) and (d) also require the protection of biodiversity and against flood risk, I conclude that that the appeal proposals do not comply with Local Plan policy DM13 taken as a whole. It would also not comply with Core Strategy policy CS12. In so doing, I find nothing in the policy persuades me that its purpose is restricted only to the character and environments of the four areas cited in preamble paragraph 6.63 as the appellant suggests.
47. I do not find that Local Plan policy DM22 is particularly relevant in this regard. I acknowledge criterion (e) of the policy which states that the Council will permit further permanent moorings or houseboats provided they protect the appearance of the riverside and do not add to river congestion. However, the policy clearly relates to recreational use of the waterways only, and I am not satisfied on the evidence before me that it should be applied as justification for permanent residential moorings. In any event, criterion (e) is predicated on character and appearance being maintained, and I have already found above that it would not.
48. In summary, while I have found that the appeal proposals accord with the Local Plan in respect to access and amenity, they conflict in respect to flooding, ecology, character and appearance and on matters of principle. This is sufficient for me to find the existence of any other harm taken as a whole, alongside harm by way of inappropriateness and erosion of openness for the purposes of assessment of the Green Belt.

Other considerations

49. The parties agree that the Council cannot demonstrate a five-year supply of housing, albeit that the Council's latest figure, which was uncontested by the appellants, was not too far short. The Council also accepted at the Hearing that it was not currently meeting its affordable housing provision against identified need, although it could not quantify the deficit. The provision of permanent residential boats would contribute to addressing both needs, albeit marginally, and I have afforded some weight to these benefits in this regard.
50. The Council admitted at the Hearing that neither the policies relied upon for the appeals, nor any within the development plan, concern permanent residential moorings. Thus, there was no evidence before me of an understanding of need

and no provisions made for sites to address it. Given that the Council has a substantial waterfront edge and where the wider area is evidently popular for boat moorings, I am surprised that this is the case, and I can sympathise with the appellants' assertion that the Council has repeatedly failed to address this.

51. On a more positive note, I am told that the Council is now currently undertaking a needs assessment. However, this is not currently in the public domain and so there is no evidence before me on the level of demand for permanent residential moorings and whether this would be addressed or met through a future development plan examination process or by some other means, and the timescales for doing so.
52. Part of the Council's case on the unsuitability of the appeals in this location is that allocated sites for permanent residential moorings are generally served by local infrastructure such as parking, electricity, and waste and recycling points; none of which are evident here. However, without such a strategy or plan in place identifying allocated sites, or policy which sets out the criteria where permanent residential moorings may or may not be acceptable, the appellants are rather stranded in a sort of no-man's land; with the possibility of not being allowed to remain here but with no idea of other suitable sites to go to. I agree that this is somewhat of an unsatisfactory position for the appellants to find themselves in.
53. It is not for me in these appeals to determine the suitability of this part of the riverbank for permanent residential purposes. While I can understand that The Old Wharf lends itself to be considered a suitable site because of its very existence, I accept that there may be a number of other reasons why it may not be suitable, and to make such a declaration here would undermine the Council's due process.
54. I have, as such, given serious consideration to the use of temporary permissions for all appeals. This would allow the appellants to remain while the Council completes its assessment of need and to set out a mitigation solution if applicable and required. However, it is the absence of a flood risk assessment for the appeals, taken with the unknown effects on ecology over a wider area, which ultimately leads me to conclude that I cannot entertain this. This is because, even for a temporary period, I have insufficient evidence before me as to whether the appeal sites are manageable in the event of flooding, or whether there are harmful effects to the designated ecological sites. Without such evidence and appropriate mitigation, a temporary consent is not justified.
55. Appeal E, in the case of Mr Gjika, has an infant who resides with him and his partner. The appellant states that the child currently attends a local nursery and is not far from advancement to reception or foundation year at primary school, and I take from this that having a fixed base is important to the process of applying for such places. The appellant informed me that, in the event that I was to dismiss his appeal, he would have nowhere to go and would, in effect, be homeless. While the Council stated that other legislation exists to manage such a situation, especially a family with a child, it could not set out definitively what would or very likely happen and particularly, the speed in which a homeless family with a young child could be found alternative accommodation. I have taken this into account in the paragraphs below.

Whether very special circumstances exist

56. As I have alluded to above, the Framework is clear in that the Green Belt must be protected for its openness and permanence, which is my starting point. The fact the 'very special circumstances' must exist to permit development in the Green Belt is evidence that proposals must navigate a very high bar to succeed.
57. Because the appellant for Appeal A is not currently residing on the boat, there would be no issue concerning him needing to find alternative accommodation, and any inconvenience is largely restricted to locating an alternative mooring spot. I do not find this amounts to the 'very special circumstances' necessary to outweigh Green Belt harm I have identified.
58. In respect to Appeals B, C and D, I acknowledge the length of time that Messrs. Kastrati and Cross have been present on their respective boats, albeit that they have changed locations. I heard from Mr Cross that he also runs a local business which has its base on the boat. However, neither they nor Mr & Mrs Casey, who stated they were part of a local church group, demonstrated a particular local long-standing connection with the area, and I find no obvious reason to suggest that remaining here is essential to their needs and established connections.
59. I accept that dismissal of such appeals could result in the appellants for Appeals B, C and D needing to find alternative accommodation. However, none expressed in evidence before me any obvious difficulty should this occur or that it would lead directly to homelessness.
60. Accordingly, for Appeals B, C and D I do not find that the other considerations I have identified above amount to the 'very special circumstances' which are necessary for me to outweigh the significant harm I must attach to inappropriateness, loss of openness, and any other harm. I repeat again, I am unable to consider a temporary consent because I have little evidence of the flood risk and wider ecology effects that may occur.
61. As the other considerations are not capable of outweighing the harm by reason of inappropriateness, loss of openness and any other harm to the Green Belt, Appeals A to D do not comply with Local Plan policy DM17 or with the development plan as a whole, and the relevant parts of the Framework, details of which I have set out above. The Framework's paragraph 11(d)(i) applies as Green Belt forms part of footnote 7 and directs refusal of the appeals.
62. In respect to Appeal E, my conclusions would have followed those of Appeals A to D had the welfare of a child not had to be taken into additional consideration. Paragraph 028 of the Guidance¹⁰ provides advice under the heading as whether children's best interests be taken into account when determining planning applications.
63. It states that a decision maker needs to consider whether children's best interests are relevant to any planning issue under consideration and the approach needs to be proportionate. It goes on to state that the decision maker needs to consider the case before them and need to be mindful that the best interests of a particular child will not always outweigh other considerations

¹⁰ Planning Practice Guidance reference 21b-028-20150901

including those that impact negatively on the environment or the wider community. This will include considering the scope to mitigate any potential harm through non-planning measures, for example through intervention or extra support for the family through social, health and education services.

64. I read into this that the welfare of a child need not necessarily outweigh the negative effects on the environment. However, the Guidance is somewhat predicated on the fact that alternative measures may exist to address the needs. Because the Council, perhaps understandably at the Hearing, could not confidently state how the family would be managed in the event Appeal E was dismissed, I cannot be certain that the family would have alternative accommodation to go to. This, ultimately, could undermine the child's welfare.
65. The harm I have identified by way of inappropriateness, loss of openness and any other harm remain valid for Appeal E. However, the welfare of the child is a primary concern and I find that on this matter alone and for the reasons I have set out above, 'very special circumstances' exists which is sufficient for me to outweigh the significant harm I must attach to the Green Belt.
66. I do not find this should be a permanent consent, because significant harm occurs on the matters discussed above. Therefore, I am content to find that Appeal E should thus succeed only for a temporary period, which would allow further time for the Council to complete its policy due process and/or for the family to find alternative accommodation. At the Hearing, I asked the parties whether granting a temporary consent was an option open to me, and my decision to do so will accordingly not come as a surprise to them. Subject to that, I find that Appeal E accords with Local Plan policy DM17 and the relevant parts of the Framework, again the details of which I have discussed above.

Other Matters

67. I note the concerns raised by third parties in respect to noise and anti-social behaviour, fire risks from use of barbecues etc, and the effect on parking stress levels on nearby streets. None have been substantiated in evidence before me and the Council has not raised any specific objection on these grounds. Accordingly, I do not find that harm has been adequately demonstrated sufficient for me to find against the appeals on these matters.
68. I do not accept that my decision for the appeals sets a precedent as each scheme is assessed, either at application stage or appeal, on its merits. The effect of the proposal on local property values is not a planning matter and has had no bearing on my decision.

Conditions

69. This conditions section relates only to Appeal E. I have considered the conditions advanced by the Council and the appellant, who rather disappointingly were unable to reach common ground on their applicability and wording, against paragraph 57 of the Framework, and I have made amendments to comply with those criteria. I am satisfied that the wording of the conditions deals with the Council's concerns over securing such details are implemented and in a timely manner.
70. Because of my findings on inappropriateness, openness, and any other harm to the Green Belt from Appeal E, I find that the consent should be both temporary

and restricted to a personal consent for the appellant and his immediate family, allowing time for the family to find alternative accommodation or an appropriate and suitable location. This period would also allow the Council time to complete its ongoing work in respect to addressing permanent residential need for boats. I find it reasonable to restrict the temporary consent to two years. The three-to-five years as suggested by the appellant is unjustifiably long in my judgement, but in any event, the appellant will have the means to seek permission from the Council to amend this condition should it be deemed necessary.

71. I concur with the parties that conditions in respect of retaining the extant landscaping as well as the requirement of details in respect of cycle storage, external lighting and means of enclosure are necessary in the interests of visual amenity. Conditions in respect of requiring details of the refuse and recycle and foul waste and water management are necessary to ensure there would be no harmful effects on the local environment. Contrary to the appellant's assertion, I find that a flood risk assessment condition is necessary to ensure, even for a temporary period, the risks of flooding and mitigation have been adequately assessed and understood.
72. I do not share the Council's view on the need for an ecological assessment given the temporary nature of the consent and its findings on the value of the immediate area. While I accept that the effect on the wider area is unknown, I have no obvious reason to find that it would likely be of the severity to outweigh the welfare of a child, and it would need to be. Because this is a temporary consent, I do not consider a new landscaping plan is necessary.

Conclusion

73. These have been very difficult cases to determine. My decision for each appeal directly affects the lives of the appellants, and the absence of policy on permanent residential moorings has placed a heavy burden on my thoughts. However, Green Belt policy is about keeping land permanently open and is deliberately protective against development. Proposals need to navigate a very high bar and thus amount to 'very special circumstances' if they are to succeed.
74. I find that Appeals A to D do not amount to the 'very special circumstances' necessary to outweigh the significant harm I attach to inappropriateness in the Green Belt, loss of openness and the other harm I have identified. Because of the welfare of a child arises, Appeal E does.
75. Therefore, I find that Appeal E succeeds subject to the conditions I set out in the Schedule of Conditions below. Appeals A, B, C and D are dismissed.

R W Allen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the submitted Site Plan and Block Plan.
- 2) The development hereby permitted shall be occupied only by Mr E. Gjika; Ms L Avdulaj and any resident dependent.
- 3) The development hereby permitted shall be limited to a period of two years from the date of this decision. At the end of that period or when the moorings cease to be occupied by those occupants listed in Condition (2), whichever is the soonest, the boats hereby permitted and all associated paraphernalia including those permitted by Condition (5) shall be removed and the land restored to its former condition within three months of the cessation of use in accordance with a scheme of work that shall first have been submitted to the Local Planning Authority for approval in writing.
- 4) All existing trees, hedges or hedgerows shall be retained. No retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3998: 2010 (tree work) and in accordance with any approved supplied arboricultural information. If any retained tree, hedge, or hedgerow is removed, uprooted, or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season or sooner, with a timetable for implementation.
- 5) Within three months of the date of the decision, details of the cycle storage, any external lighting and means of enclosure shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented within one month following the date of approval and shall thereafter be retained through the duration of the development.
- 6) Within three months of the date of the decision, a refuse and recycling management plan shall be submitted to the Local Planning Authority for approval in writing. The plan shall be implemented in accordance with the approved details.
- 7) Within three months of the date of the decision, details of foul waste and water management shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved details.
- 8) Within three months of the date of the decision, a flood risk assessment to include details of full resilience and mitigation measures for the lifetime of the development, taking into account climate change, and shall include a personal flood plan and a safe access/egress route, shall be submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with those approved details.

APPEARANCES

FOR THE APPELLANTS:

Mrs A. Heine	Consultant
Mr P. Powlesland	Garden Court Chambers
Mr J. Casey	Appellant
Mrs J. Casey	Appellant
Mr P. Thatcher	Appellant
Dr S. Elmamoun	Appellant
Mr S. Cross	Appellant
Mr E. Gjika	Appellant
Mr F. Kastrati	Appellant
Mr R. Walden	Interested Party for the Appellant
Mr K. Hatzipapas	Interested Party for the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs J. Margetts	Planning Officer
Dr A. Bowes	Cornerstone Barristers
Mrs P. Yorath	Environment Agency
Mr N. McKie-Smith	Environment Agency
Mrs V. James	Environment Agency

DOCUMENTS SUBMITTED AT THE HEARING

1. Appeal Court Decisions: Alison Hook vs Secretary of State for Housing, Communities and Local Government and Surrey Heath Borough Council [2020] EWCA Civ 486

Appendix 4 Replacement Policies

Core Strategy policies (adopted 2011)	Replacement policy
CS1 Spatial strategy	SS2 Sustainable place-making & SS3 Scale and location of growth
CS2 Housing provision, location and distribution	SS3 Scale and location of growth
CS3 Walton on Thames	SS2 Sustainable place-making & SS3 Scale and location of growth
CS4 Weybridge	
CS5 Hersham	
CS6 Whiteley Village	
CS7 East and West Molesey	
CS8 Thames Ditton, Long Ditton, Hinchley Wood and Weston Green	
CS9 Esher	
CS10 Cobham, Oxshott, Stoke D'Abernon and Downside	
CS11 Claygate	
CS12 The River Thames Corridor and its tributaries	
CS13 Thames Basin Heaths Special Protection Area	ENV5 Thames Basin Heaths Special Protection Area
CS14 Green Infrastructure	ENV1 Green and blue infrastructure
CS15 Biodiversity	ENV6 Protecting, enhancing and recovering biodiversity
CS16 Social and Community Infrastructure	INF2 social and community uses
CS17 Local Character, Density and Design	SS2 Sustainable place-making and ENV9 Urban Design Quality
CS18 Town Centre uses	ECO3 Supporting our town, district and local centres
CS19 Housing type and size	HOU3 Housing mix
CS20 Older people	HOU6 Specialist housing
CS21 Affordable housing	HOU4 Affordable housing
CS22 Gypsies, Travellers and Travelling showpeople	HOU7 Gypsy, Roma, Traveller and Travelling showpeople accommodation
CS23 Employment land provision	SS3 Scale and location of growth
CS24 Hotels and tourism	ECO4 Promoting visitor attractions and arts and cultural venues
CS25 Travel and accessibility	INF6 sustainable travel & Parking SPD (updated)
CS26 Flooding	INF7 managing flood risk
CS27 Sustainable buildings	CC3 Sustainable design standards
CS28 Implementation and Delivery	Chapter 10 monitoring framework SS1 Responding to the climate emergency SS2 Sustainable place-making

	SS3 Scale and location of growth
CS29 Monitoring	Chapter 10 monitoring framework
Elmbridge Local Plan Development Management Plan 2015	Replacement policy
DM1 Presumption in favour of sustainable development	SS2 Sustainable place-making
DM2 Design and amenity	ENV9 Urban design quality
DM3 Mixed uses	HOU2 Optimisation of sites ECO1 Supporting the economy ECO3 Supporting our town, district and local centres
DM4 Comprehensive development	HOU2 Optimisation of sites
DM5 Pollution	ENV7 Environmental quality ENV8 Air Quality
DM6 Landscape and trees	ENV2 Landscape, trees and woodlands
DM7 Access and parking	CC4 Sustainable transport
DM8 Refuse, recycling and external plant	ENV9 Urban design quality
DM9 Social and community facilities	INF2 Social and community infrastructure
DM10 Housing	HOU3 Housing mix HOU5 Housing technical standards
DM11 Employment	ECO1 Supporting the economy ECO3 Supporting our town, district and local centres
DM12 Heritage	ENV10 Heritage assets
DM13 Riverside development and uses	INF6 Rivers
DM14 Evening economy	ECO1 Supporting the economy ECO3 Supporting our town, district and local centres
DM15 Advertisements, shopfronts and signage	ENV9 Urban design quality
DM16 Telecommunications	INF5 Communications
DM17 Green Belt (development of new buildings)	ENV4 Development in the Green Belt
DM18 Green Belt (development of existing buildings)	ENV4 Development in the Green Belt
DM19 Horse-related uses and development	ECO5 Equestrian related development
DM20 Open space and views	ENV3 Local Green Spaces ENV11 Strategic views
DM21 Nature conservation and biodiversity	ENV6 Protecting, enhancing and recovering biodiversity
DM22 Recreational uses of waterways	INF6 Rivers