



---

## Appeal Decisions

Inquiry opened on 16 November 2010

Site visit made on 18 November 2010

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 4 February 2011**

---

### **Appeal A - Ref: APP/Z3635/A/10/2129110**

**Riverside Works (Mainland Site), Fordbridge Road, Sunbury on Thames, Middlesex, TW16 6AZ**

### **Appeal B - Ref: APP/Z3635/A/10/2137240**

### **Appeal C - Ref: APP/K3605/A/10/2136142**

**Riverside Works (Island Site), Fordbridge Road, Sunbury on Thames, Middlesex, TW16 6AZ**

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission.
  - All 3 appeals are made by Linden Homes South-East and the Environment Agency. Appeals A & B are against the decisions of Spelthorne Borough Council; Appeal C is against the decision of Elmbridge Borough Council.
  - For Appeal A the application Ref 09/00523/FUL, stated by the Council to be dated 9 September 2009, was refused by notice dated 27 November 2009.
  - The development proposed is a residential development comprising 8 1-bed flats, 35 2-bed flats, 18 2-bed houses, 23 3-bed houses and 4 4-bed houses, new vehicular and pedestrian accesses including access road to Environment Agency island site, public and private open space, landscaping and riverside improvements following demolition of all existing buildings except the sub-station.
  - For Appeal B the application Ref 10/00555/FUL, dated 6 July 2010, was refused by notice dated 17 September 2010.
  - For Appeal C the application Ref 2010/1704, dated 6 July 2010, was refused by notice dated 7 September 2010.
  - For both Appeal B & Appeal C the development proposed is the erection of a new workshop building, replacement covered storage area and general improvements to existing storage and parking areas together with new landscaping.
  - The inquiry sat for 6 days on 16 to 19 November and 13 to 14 December 2010.
- 

## **Decisions**

1. I dismiss Appeal A, Appeal B and Appeal C.

## **Procedural Matters**

2. These appeals relate to 2 sites, referred to as the mainland site and the island site which, together, comprise the Environment Agency's (EA's) Riverside Works at Sunbury. The local authority boundaries follow an unusual course in this area, passing through the island site which lies on Wheatleys Eyot, within the Green Belt. The backwater which separates Wheatleys Eyot from the mainland, and a small part of the island site, lie within the Spelthorne Borough Council area as does the entirety of the mainland site. The remainder of the island site falls within the Elmbridge Borough Council area. As a result the appeals relate to decisions made by both Councils.

3. The Appeal A application was dated ambiguously, so I have used the date as specified by the Council. This application was submitted for 88 dwelling units, but at the opening of the inquiry the appellants made an application to substitute a number of revised plans which reduced the total number of dwellings to 86 and made other minor alterations to the originally submitted plans. A consultation exercise on these revised plans had been undertaken by the appellants. Having regard to this, and the relatively minor nature of the proposed changes, I indicated that I would determine the appeals on the basis of these revised plans as I did not consider that to do so would be likely to seriously adversely prejudice anyone with a legitimate interest in the proposals.

### **Main issues**

4. In view of the above points and the matters raised during the inquiry I consider that in the case of Appeal A, the main issues are:
  - 1) whether the proposal would give rise, in urban design terms, to a cramped development, having particular regard to density, the amount of private amenity space to be provided, separation distances between buildings and the internal road layout.
  - 2) the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the 3 blocks of flats proposed to front the river.
  - 3) whether the proposal would make adequate and satisfactory provision for play space for children.
  - 4) the effect of the proposed development on protected species.
5. There is no dispute between the parties that the proposed workshop on the island site would be inappropriate development in the Green Belt. Therefore, in the case of Appeals B and C, I consider the main issues to be the related matters of:
  - 1) the effect of the development on the openness of the Green Belt and the purposes of including land in it.
  - 2) the effect of the development on the visual amenities of the Green Belt.
  - 3) the effect of the proposed development on protected species.
  - 4) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
6. For Appeal C, a further main issue is the effect of the proposed development on the character and appearance of the River Thames and the surrounding area.

### **Site description**

7. The mainland part of the overall EA site, to which Appeal A applies, lies within the urban area of Sunbury on Thames and is sited to the south-east of Fordbridge Road from where it takes its access. Existing frontage development on this road is characterised mainly by bungalows and chalet bungalows with some 3 and 4-storey flats lying further to the north-east. The residential areas of Loudwater Road and Loudwater Close to the north of the appeal site comprise mainly 2-storey semi-detached houses. Low-density residential areas of Willow Way and The Creek lie to the north-east and south-west respectively, with both containing mainly detached bungalows and similar sized residential properties.

8. The Creek is located within the Green Belt and is identified as a Plotland Area, to which policy EN2 of the Spelthorne Core Strategy and Policies (CSP) Development Plan Document (DPD) relates. The eastern end of Willow Way is also categorised as a Plotland Area, as are the residential areas which lie at the north-eastern and south-western ends of Wheatleys Eyot. There is a Council owned park at the Old Bathing Station Recreation Ground, about 100m from the appeal site entrance to the north-east along Fordbridge Road, which includes an equipped children's play area,. The park lies within the Green Belt, as does land to the west of the mainland site, on the opposite side of Fordbridge Road.
9. The majority of the mainland site is hard surfaced, providing parking areas for cars and Heavy Goods Vehicles (HGVs) as well as external storage areas. It also contains a number of buildings including a large workshop with a floor area of some 2,280sqm, a steel-framed shed structure and a 2-storey office block. In addition a 2-storey dwelling known as Conservancy Cottage lies in the site's northern corner and an electricity sub-station is sited in the western corner. The site has been raised in height in the past with the north-eastern and south-western sides, both of which are lined with mature trees, sloping fairly steeply down to where they meet the adjoining residential areas. As a result the mainland site lies within flood zone 2 (between a 1 in 100 and 1 in 1,000 annual probability of flooding), whilst the island site lies within flood zone 3a (a 1 in 100 or greater annual probability of flooding).
10. Wheatleys Eyot lies to the south-east of the mainland site and is connected to it by a concrete road bridge for use by EA vehicles, together with a pedestrian bridge for use by island residents. The central part comprises the EA's island site and is the subject of Appeals B and C. It contains a dry dock, covered storage area, storage containers and other structures, moorings, slipway and open storage and parking areas. The River Thames next to this appeal site, and for some distance either side has been designated as a Site of Nature Conservation Importance (SNCI) by Elmbridge Council. The Spelthorne part of the backwater lies within a SNCI designated by Spelthorne Council.

## **Background**

11. The EA's operations at the Riverside Works have been scaled down in recent years. With only about 15% of the mainland site in use, the site was declared surplus to requirements and added to the Register of Surplus Public Sector Land in January 2005. Later in 2005 Spelthorne Council indicated it was considering the mainland site as a possible housing site. In 2006 Gillespies produced a design brief for the Riverside Works, on behalf of the EA, with potential for a variety of uses subject to the EA retaining access in perpetuity through the mainland site to that part of its operational depot on Wheatleys Eyot.
12. However, although I understand that a draft of this design brief had been seen by Spelthorne Councillors, it is unclear how much information it contained regarding the need to relocate buildings (albeit in reduced size and scale) onto the island site. This point aside, the Spelthorne Council view was that the brief should reflect the elevated nature of the mainland part of the site in relation to the existing residential properties at Willow Way and The Creek and that residential development should not exceed 2 storeys, with no third floor accommodation in roof spaces. However, no such constraints found their way into the final version of the Brief. As the brief primarily affects land within Spelthorne it is unclear what consultation was undertaken on it with Elmbridge Council. What does seem to be the case, however, is that there is no mention

within the document of the fact that the island site lies within the Green Belt, with the consequent restrictions on development which that entails.

13. The mainland site was included as a specific site allocation in the adopted Spelthorne Allocations DPD which was subject to an Examination hearing in 2009. It comments that development at a density close to the minimum of 35 dwellings per hectare (dph) set out in Policy HO5 of the CSPDPD is assumed, with the site considered suitable for a residential development of approximately 50 dwellings. It also points out that an on-going site constraint is the need to retain access to the adjoining island of Wheatleys Eyot. I have noted, however, that the Inspector's Report relating to this DPD appears to make no direct reference to the fact that the EA has an existing workshop on the Riverside Works site which will need to be satisfactorily relocated. Nor is there any mention of Green Belt constraints, or the need to relocate some of the EA's activities currently undertaken on the mainland site.

## **Reasons**

### ***Appeal A***

#### *Urban design matters*

14. The Allocations DPD assumed a site size of some 1.57ha, whereas the Appeal A planning application specifies a larger size of 1.82ha. But even allowing for this, and the amended scheme shown on the revised plans, the proposed number of 86 dwellings is significantly greater than was envisaged in the Allocations DPD. This has caused the Council to be critical of the overall layout, in urban design terms, arguing that the proposal amounts to an overdevelopment of the site. Similar views are expressed by the Campaign Against Riverside Over Development (CAROD) which appeared at the inquiry as a Rule 6(6) Party.
15. The design has chosen to focus development towards the centre of the site, allowing areas of amenity space to be provided towards the edges. This approach also serves to limit the amount of new development in proximity to the boundaries which border the existing residential properties in Willow Way and The Creek. Three blocks of essentially 2-storey flats are proposed for the Fordbridge Road frontage, with 3 further blocks of 3-storey flats facing the backwater. With the exception of 2 smaller blocks of 2-storey flats, facing the north-eastern boundary, the remainder of the dwellings would be a mix of 2 and 3-storey house types, predominantly of terraced layout. I understand that agreement had been reached with Council Officers regarding the mix of house types to accord with CSP policy HO4.
16. Vehicular access would be from a single junction onto Fordbridge Road (replacing the 3 access points currently available), and vehicle circulation within the site would, essentially, be by means of a one-way clockwise loop. An exception to this would be the northern part of this loop road which would give access over the existing concrete bridge to the EA's island site. The Design & Access (D&A) Statement is not particularly clear on this point, but it was confirmed at the inquiry that this part of the road system would be 2-way insofar as HGVs and other traffic to and from the island site are concerned.
17. There would be a number of pedestrian routes through the development with a particular feature being a central linear greenway running from north-west to south-east. As well as providing pedestrian access to adjacent dwellings, this would offer a walkway through the site to ramped decks at the edge of the

backwater and would also offer areas for sitting out around a canalised water feature running along the walkway. Another pedestrian feature would be the provision of a route through the site from Fordbridge Road to Wheatleys Eyot, providing access over the existing footbridge adjacent to the vehicle bridge.

18. The density of about 47dph would fall within the range specified in CSP policy HO5 and I also acknowledge that in terms of urban grain, the footprint of the proposed development would be generally in keeping with the grain of the surrounding area, as demonstrated in the D&A Statement. However, although details of density and urban grain are important considerations in assessing a proposed residential development, they only give a partial picture as they do not take matters of height into account. In this regard it is of note that the vast majority of house types proposed for the central part of the site would be 3-storey, with the Type C and G properties having mono-pitched or asymmetric pitched roofs which I consider would emphasise their 3-storey nature.
19. Because of this I consider that guidelines set out in the Council's adopted Supplementary Planning Guidance<sup>1</sup> (SPG) are important indicators to the quality and acceptability of a proposal's overall design. I take this view in the light of CSP policy EN1 which seeks a high standard of design and layout and, amongst other matters, requires new development to respect and make a positive contribution to the character of the area in which it is situated. In particular it requires development to pay due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land. The SPG guidelines drawn to my attention cover such points by relating to separation distances between buildings and the amount of garden area/private amenity space to be provided, both of which are dependent on the types of dwellings concerned and the number of storeys they contain.
20. Dealing first with the blocks of flats which, in the main, are located towards the edges of the site there were some differences of opinion between the parties regarding the interpretation of the SPG in the case of shared amenity space for such units. To my mind it does not seem reasonable to simply undertake the calculation on the basis of the total number of flats, as summarised in the appellants' closing submissions, in view of the significant separation distances between the 3 separate groupings of flats. However, if the roadside and riverside groups are considered separately, it seems to me that each would have adequate space when assessed against these SPG guidelines. Much of this amenity space is not located to the rear of the blocks and might therefore prove to not be particularly private, but overall it is my view that the quantum of space to be provided for these flats would be acceptable. But a different situation exists insofar as Blocks 7 and 8 are concerned. Although I acknowledge that these only comprise 2 flats in total, they would have no private amenity space at all which I do not consider to be an acceptable situation for dwellings that could clearly be occupied by families.
21. In the case of the individual dwellings, located more towards the centre of the site, I have been mindful of the schedules of garden size and separation distances prepared by the appellants and re-worked by the Council's witness. I accept that the SPG guidelines should not be followed slavishly, especially as they are some 11 years old and pre-date Government guidance in the 2000 version of Planning Policy Guidance Note 3<sup>2</sup> and its successor document

---

<sup>1</sup> SPG: *The Design of New Residential Development and Residential Extensions*.

<sup>2</sup> Planning Policy Guidance Note 3: *Housing*

Planning Policy Statement 3<sup>3</sup>, both of which emphasise the need for efficient use of land for housing. I also accept that there were differences of opinion regarding the storey height of some of the Type A and Type C dwellings, especially as the number of 3-storey Type A dwellings would be dependent on the amount of affordable housing to be provided. Nevertheless, the fact remains that a significant number of garden areas and building separation distances would fall below the recommended figures on what would, effectively, be a cleared site where it should be easier to meet such guidelines.

22. In my assessment the consequence of this approach is that the central part of the site would have a tightly-developed, congested appearance which would be at odds with the low density and less formal feel of Willow Way and, particularly, The Creek. I fully accept that there is no policy requirement for new development to replicate the character or appearance of neighbouring properties or areas, either at the local or national level. However, in view of the above points I am not persuaded that this fairly high density, urban-style of layout, would be appropriate at what I consider to be a suburban/semi-rural location, bordered on 2 sides by low density Plotland areas, and facing open, Green Belt land to the north-west. Furthermore I do not consider that its nature and appearance, outlined above, could be said to satisfactorily respond to its local context and create or reinforce local distinctiveness, as sought by Planning Policy Statement 1 (PPS1)<sup>4</sup>. I acknowledge that Council Officers viewed the scheme now at appeal as acceptable and recommended it for approval. However, having considered the proposed layout plans, the elevational details and the 'birds-eye' illustration of the whole site in the D&A Statement, and for the reasons already given, I share the Council's view that the development would have a cramped and unacceptable appearance.
23. Highway access to the retained EA island site and traffic movements on the site generally were also discussed at the inquiry, in response to my questions and concerns expressed by CAROD. Concerns had also been raised by the Highway Authority although as the on-site roads would not meet the requirements of the Surrey Design Guide, nor be offered for adoption, the Highway Authority took the view that such matters related more to issues of design which therefore fell to the Council for consideration. I agree that these matters have a direct link to the design and layout of the proposed development and that it is therefore appropriate and necessary to consider them under this first main issue.
24. The need to retain access to the EA island site was seen in the Allocations DPD as a constraint to the development of the mainland area, but the appellants have tried to limit the impact of this constraint and maximise the area available for development by combining the EA access with the site's general traffic circulation route. With a more straightforward and direct alignment this could well be a practicable option, as demonstrated in sketch layouts in the Gillespie Design Brief. However, the access route in the appeal scheme would require HGV traffic to and from the retained EA island site to travel, on a 2-way basis, along a circuitous alignment through and immediately adjacent to sections of the development which are shown in the D&A Statement to be "Home Zones".
25. These are sections of the development which are not designed to favour movement by the motor car. They are defined as having reduced carriageway widths, differing surfacing finishes and features to restrict on-street parking,

---

<sup>3</sup> Planning Policy Statement 3: *Housing*

<sup>4</sup> Planning Policy Statement 1: *Delivering Sustainable Development*

creating an informal structure which gives streets back to residents and allows a community feel to be provided. However, whilst I consider such aims to be entirely appropriate for a purely residential area, I do not consider them to be appropriate for a route expected to be able to provide normal and emergency access on a 24 hour/365 day basis to an operational EA site. Moreover, on the basis of the evidence before me it does not appear that any full and meaningful assessment of the implications of HGVs using such a route, particularly in times of emergency, has been undertaken by the appellants' highways consultants.

26. An access route able to carry 16.5m, 40 tonne articulated vehicles is clearly essential for the EA's operations, as it was a specific requirement in a study commissioned by the EA from Savills Chartered Surveyors to investigate possible suitable and available alternative sites. The inappropriateness of a design which requires such traffic to negotiate 2 relatively tight bends and pass through and adjacent to a "Home Zone" is, to my mind, highlighted by evidence from the EA's witness that 1,000 tons of very large rock, required to assist with the repair of weirs etc in times of flood, was brought onto the island site by road by some 45 HGVs. I accept that this may not be a regular occurrence, but by their very nature emergency events are unpredictable and routing such traffic through a residential area on such an alignment seems to me to be inadvisable.
27. I acknowledge that the Play Strategy plan, submitted as part of the revisions to the appeal proposal, does not highlight the northern part of the internal road system as including "Home Zones", contrary to the details contained in the D&A Statement. However, this plan has only been submitted on an illustrative basis and it is clear from the main site layout plan (D003 RevG) that the same form of paving would be used for the northern section of this road, as would be the case for other sections to the south and west, clearly shown to include "Home Zones". Moreover there is nothing in the evidence before me to suggest that residents of the proposed development would treat this northern part in any different manner to the rest of the internal loop road.
28. In addition, the swept-path diagrams submitted in evidence make it quite clear that HGVs would take up most of the available carriageway width to negotiate the tight bends and that a car and HGV would only be able to pass, on certain sections of this northern part of the loop road, with great care. I acknowledge that regular, daily HGV traffic associated with the EA is only likely to be 2 or 3 vehicles, but this could clearly change significantly in times of emergency. The layout and alignment of this route seem to me to be an integral part of the chosen design approach of concentrating development in the centre of the site. However, for the reasons just given I do not consider that it would be able to satisfactorily and safely serve the dual functions of providing HGV access to the EA island site and a circulatory route for general traffic to the proposed development. These points reinforce my view that the currently proposed scheme represents a cramped design.
29. In light of all the above points I conclude that the proposed development would fail to deliver a high quality layout but, instead, would be of a cramped and inappropriate design. Accordingly I find the proposal to be at odds with CSP policy EN1, as well as with general guidance in PPS1 as detailed earlier.

*Effect on character and appearance of the surrounding area*

30. The Council was particularly concerned about the impact of the proposed blocks of flats facing the backwater and the river, whilst CAROD also raised concerns regarding the flats proposed for the Fordbridge Road frontage. On the first of

these points the scheme proposes 3 blocks of 3-storey flats, each with 3 gables slightly lower than the highest point of the existing workshop's roof, facing the backwater. These flats would be set a few metres further away from the backwater than is the workshop, and I have noted the appellants' comments that the 3 blocks would be similar in design, to create rhythm, and would be highly articulated to appear as a series of smaller elements. The appellants further contend that the mass of the blocks would appear greatly reduced because of the articulation of the elevations and the form of the roof.

31. However, although the workshop is a bulky and rather unattractive building, I consider that its largely featureless elevations serve to limit its visual impact somewhat. In contrast, the proposed flats would present a significantly longer, "busier" frontage to the backwater than does the workshop, and to my mind this would increase the visual prominence of these buildings. Moreover, despite the appellants' contention that the buildings would take references from local buildings and marine architecture generally, it is my view that the height and massing would be the dominant characteristics of the buildings. As a result I am not persuaded that the use of white render, timber boarding, warehouse-style features and gabled roofs would convey any real similarity or empathy with other buildings facing the backwater and river, which are generally much more modestly proportioned, as I saw at my site visit.
32. I accept that screening provided by existing and proposed trees, when in leaf, would reduce the prominence of the these flats in views from Wheatleys Eyot, the River Thames and the opposite river bank as demonstrated in the appellants' submitted visualisations. However, other photographs, submitted on behalf of Elmbridge Council show that the existing workshop can be seen relatively easily when the trees have lost their leaves. I have also noted the informal concerns expressed by Surrey County Council. In summary these are that the proposal is likely to bring a substantially more urbanised appearance to the riverside, out of keeping with the surrounding riparian landscape and therefore incompatible with objectives for maintaining and enhancing the landscape and setting of the Thames riverside. I share this view and, overall, consider that the buildings' height, bulk and design would represent a clear urban-style of development which would be out of character in this suburban or semi-rural setting.
33. Turning to the Fordbridge Road frontage, 3 pitched-roof blocks of flats with front facing gables are proposed for this part of the site. There was debate at the inquiry as to whether these buildings should be considered to be of 2 or 3 storeys in height, but although they would all have a significant amount of accommodation at second floor level this would be predominantly contained within the roofspace. Moreover, most of the eaves would be just above the first floor windows. As a result I am satisfied that the buildings would have the general form of traditional 2-storey residential properties, albeit with fairly prominent second-floor fenestration facing Fordbridge Road.
34. Each of these buildings would be of similar width to a pair of semi-detached houses, and although they would be of appreciable depth I do not consider that this aspect of the buildings would be particularly noticeable from Fordbridge Road. Moreover, although I accept that many of the dwellings fronting Fordbridge Road in this locality are single-storey, there are also several which clearly have first floor accommodation, as well as some 3-storey flats a little further to the north-east. In view of these points, and the fact that the appeal site lies within the urban area, albeit towards its fringe, I am satisfied that the

form and appearance of these blocks of flats would be acceptable at this location in the context of other development in the locality. Furthermore, although 2 of these frontage properties would face onto an area of Green Belt, to the west of Fordbridge Road, I do not consider that the Green Belt setting would be materially harmed as existing built development in Loudwater Road can already be clearly seen from the Green Belt.

35. However, despite my favourable findings on these latter points, my adverse findings regarding the impact of the flats proposed for the south-eastern part of the site lead me to the overall conclusion that the proposed development would have an adverse impact on the character and appearance of the surrounding area. Because of this I find the proposal to be at odds with CSP policies EN1 and EN9. I have already made reference to the first of these policies and the second requires, amongst other matters, that development located in riverside settings respects and makes a positive contribution to the setting of the river.

*Play space for children.*

36. The scheme which was refused by the Council contained a variety of open space provision including a formal garden area close to the site entrance, the central greenway already referred to, a riverside walkway and pontoons, and a landscaped footpath and "trim trail" around the site perimeter. In addition a number of grassed spaces would provide informal play areas for children. However, no specific children's play area was provided as it was considered preferable, by both the appellants and Council Officers, to make a financial contribution towards the upgrading of the existing recreation ground at the Old Bathing Station, referred to above.
37. Spelthorne Council Members took a different view and refused planning permission on the grounds (amongst others), that the proposal lacks provision of open space of adequate size to provide for a children's play area on site and is thus contrary to CSP policy CO3. The relevant part of this policy requires, in new housing developments of 30 or more family dwellings, a minimum of 0.1ha of open space to provide for a children's play area, with the provision to be increased proportionally according to the size of the scheme. There was, however, some debate at the inquiry regarding the precise interpretation of this part of the policy. The appellants accepted that at first reading, it appears to require 0.26ha of playspace for children<sup>5</sup>, but then argued that this figure had, traditionally, been taken to refer to open space, of which part is then to be given over to formal playspace for children. In contrast the Council argued that all the space to be provided should be for a children's play area.
38. However, I understand that this policy has been carried forward from the Local Plan<sup>6</sup>, where it was noted that in larger schemes the Council will expect the open space to incorporate an equipped playground. Moreover, the Inspector's Report into the CSPDPD indicates that this standard equates to what, in practical terms, the Council judges to be an appropriate minimum size of open space to include an equipped children's play area. In addition, the CSP Topic Paper on *Community Needs and Infrastructure* explains that the application of this policy must be judged in the circumstances of the particular case. For all the above reasons, and as I understand that there is no other policy dealing separately with the provision of open space in association with new residential development, I favour the view expressed by the appellants on this matter.

---

<sup>5</sup> Based on 76 family units, with 0.1ha for the first 30 units, then factored up proportionally.

<sup>6</sup> Spelthorne Borough Local Plan 2001

39. As noted above, the proposal would contain 2 main areas of communal open space, at the riverside and along the south-western boundary. Together these would provide some 0.276ha. In addition, I have already referred to the fact that the proposal would include other areas of open space, and as part of the exercise to submit revised plans the appellants amended the scheme to indicate that a formal Local Area for Play (LAP) of some 111sqm and meeting criteria set out by Fields in Trust (FIT)<sup>7</sup> (with the exception of the 100m walk criteria), could be provided in the site's western corner<sup>8</sup>. The appellants also pointed out that an informal LAP of a similar size could be provided towards the eastern corner of the site and there would also be ample opportunities for play within the central greenway, which would be safe, enclosed and well-designed.
40. Criticisms were levelled at the suggested LAP by the Council and I agree that the amount of overlooking which would be afforded would be limited. I also accept that walk times to the LAP from some of the more distant dwellings would exceed the FIT criteria, albeit only by 30 seconds or so. It is a fact that the area referred to as a potential informal LAP would be close to the access to the EA's island site but, whilst not ideal, I consider that with suitable detailed treatment it could be capable of being satisfactorily protected from this vehicle route. Similarly, although not discussed at length at the inquiry, I consider that had all other matters regarding the proposal been acceptable, there would have been scope within the submitted layout to make minor adjustments to improve overlooking of the LAP. Moreover, as children would have a choice of visiting the LAP, the informal LAP or the other opportunities for play throughout the site I consider that the slightly longer than recommended walk times to the formal LAP would not have been fatal to the proposal.
41. In coming to this view I have also been mindful of the presence of the Old Bathing Station Recreation Ground, with its equipped children's play area. It is clear that a trip to and from this recreation ground from the proposed development would require Fordbridge Road to be crossed 4 times, but children from the housing area to the north of Fordbridge Road already have to cross this road twice to use this play area. As no personal injury accidents involving such movements have been brought to my attention, in accident records spanning a 20 year period, I do not consider this matter to weigh significantly against the proposal. In any case a more formalised crossing point and variable message signing, both funded through a submitted Agreement made under S106 of the Town and Country Planning Act 1990, would help to alert drivers to the likely presence of pedestrians, thereby improving road safety.
42. For all the above reasons I conclude that the proposed development would make adequate and satisfactory provision for play space for children and would not, therefore, be at odds with CSP policy CO3.

#### *Effect on protected species*

43. The appellants commissioned an Ecological Assessment for the mainland site from RSK Group Plc and submitted a report dated July 2009 in evidence. This describes the results of an initial ecological survey carried out in September 2007, with the site being revisited in July 2009 to check for any changes. It explains that the ecological survey had been commissioned at a pre-conceptual stage, before proposed designs and layout plans had been developed. Although

---

<sup>7</sup> Formerly the National Playing Fields Association

<sup>8</sup> Amended during the inquiry by the submission of illustrative Site Layout Plan No D003 RevH, to show a LAP of 100sqm

it indicates that only 1 bat dropping was found on site and that no other signs of bats were observed throughout the survey, it nevertheless concludes that trees and buildings on the site have the potential to be used by roosting bats.

44. It goes on to say that further bat surveys are needed to confirm the presence or absence of bat roosts and gives further details of the type of survey usually undertaken. It explains that bat roosts may be destroyed or damaged under a European Protected Species Disturbance Licence, from Natural England, providing a number of criteria are met, including that sufficient mitigation can be put in place to ensure there are no long-term impacts upon the bats. It also points out that the specific type and extent of mitigation required is heavily dependent on both the species involved and the type of roost affected.
45. With regard to reptiles, the assessment notes that a Common Lizard had been observed on site during an earlier ecological survey in 2005, and that it is likely that reptiles still occupy the site. It concludes that additional surveys would be needed to confirm the presence or absence of other reptile species and to obtain an estimate of the size and extent of the Common Lizard population, as this information is used to determine appropriate mitigation measures. Again it describes the recommended protocol for undertaking such surveys. Despite these clear recommendations, no additional surveys along these lines were undertaken, although a *Bat Tree Assessment* dealing with both the mainland and the island sites was undertaken by RSK, on 10 November 2010.
46. The Council dealt with nature conservation matters in its Officers' Report, by noting that the Surrey Wildlife Trust (SWT) had been consulted on the proposal but had raised no objection. The Officers' Report did note that further survey work for bats and reptiles was recommended, but considered that such matters could be dealt with by a condition. It also noted that the development offered many opportunities to restore or enhance biodiversity and, overall, took the view that the proposal was acceptable on nature conservation grounds. The Council's reasons for refusal did not cite any concerns with nature conservation matters and, possibly as a consequence of this, the appellants' written evidence did not directly address such matters in any detail.
47. Indeed in this regard I have noted that the "effect on ecology/wildlife habitat" was indicated in the Statement of Common Ground (SoCG), to be a matter agreed as acceptable between the main parties, subject to appropriate conditions. However, this SoCG had not been produced with CAROD's involvement and such matters were clearly of concern to this party as they had been highlighted in its pre-inquiry statement, as well as in the proofs of evidence put forward by its 2 witnesses. In view of these points I indicated when opening the inquiry that these were matters upon which I needed to be addressed by the parties.
48. Despite the content of the SoCG and the submission of the *Bat Tree Assessment* referred to above, I consider that important matters raised in the Ecological Assessment have not been satisfactorily addressed in accordance with current Government guidance. This point was highlighted by the consultation response from the SWT which, as well as supporting the recommendations for further survey work, specifically drew attention to paragraph 99 of Government Circular 06/2005<sup>9</sup> which supports Planning Policy Statement 9 (PPS9)<sup>10</sup>. Amongst other

---

<sup>9</sup> ODPM Circular 06/2005: *Biodiversity and Geological Conservation – Statutory obligations and their impact within the Planning System*

matters this states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision. It goes on to explain that the need to ensure ecological surveys are carried out after planning permission has been granted, should only be left to coverage under planning conditions in exceptional circumstances.

49. The Circular recognises the delay and cost that may be involved, stating that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. But where this is the case it points out that the surveys should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. Although the appellants appear to have had adequate time to undertake the recommended further surveys during the appropriate time periods, they have not done so.
50. The appellants maintain that despite recommending that further surveys be undertaken, the July 2009 RSK report was able to reach a view on the overall range of mitigation that might be appropriately tailored to fit the findings of a more detailed survey at a later date. However, it seems to me that the range of mitigation measures discussed in the July 2009 RSK report are given as examples of measures which can and should be incorporated in any future detailed proposals for the site, once the species of bat and type of roost to be affected are known. There is no indication that the detailed scheme before me has incorporated such measures. Indeed it is difficult to see how it could, without the benefit of the additional surveys referred to.
51. Moreover, the additional survey report of November 2010 does not attempt to address the previously identified requirements, but simply makes an initial assessment of all of the trees on the site which are planned to be removed. In my opinion this falls far short of responding to the recommendations of the July 2009 report. Contrary to the view of the appellants I am not satisfied that it provides me with sufficient and adequate information about the likely presence of bats, their likely locations or the type and range of mitigation measures likely to be available to deal with them.
52. I have noted the appellants' argument that the information available should be sufficient for an in-principle decision to be made in favour of the proposed development, but such a course of action seems to me to be plainly at odds with the clear guidance in Circular 06/2005, already detailed above. Furthermore, no exceptional circumstances have been put forward to justify leaving such matters to be controlled by conditions. Moreover, the November 2010 survey makes no attempt to address the second strand of the July 2009 recommendations, regarding investigating the presence or absence of reptile species and appropriate mitigation measures, as necessary.
53. In view of the above points it is not possible for me to conclude that the proposed development would result in an acceptable impact on protected species. Accordingly I find the proposal to be at odds with policies EN8 and EN22 of the CSPDPD which, in summary, seek to ensure that development does not have a harmful impact on features of nature conservation value.

---

<sup>10</sup> Planning Policy Statement 9: *Biodiversity and Geological Conservation*

*Other matters*

54. Although CAROD questioned the necessity and advisability of building within flood zones 2 and 3a, there is no objection from either Council or the consultative part of the EA to either appeal proposal on the basis of flood risk. Indeed, I have noted that the CSP Inspector had previously concluded that it would be necessary to consider sites for housing in flood zones 2 and 3. In any case, the vast majority of the mainland site lies within the 1 in 1,000 year flood zone and, in my opinion, would be quite acceptable to accommodate housing. Moreover, although I explain later that I can see no good reason to relocate the workshop onto the island site, in practical terms I nevertheless acknowledge that this building would be flood permeable and water resilient. As such I accept that it could be considered a water-compatible development, as detailed in PPS25<sup>11</sup>, and therefore acceptably located in flood zone 3a.
55. The appellants' planning witness acknowledged that the mainland proposal falls within Schedule 2 of the Environmental Impact Assessment (EIA) Regulations<sup>12</sup>. However, the site itself does not lie within a defined sensitive area and the key issue to be considered, therefore, is whether or not the development is likely to have a significant effect on the environment. In this regard I do not consider that the proposal would meet with any of the "selection criteria" set out in Schedule 3 of the EIA Regulations (reproduced as Annex B to Circular 02/99<sup>13</sup>). Furthermore, I have been mindful of the fact that the indicative thresholds and criteria for the identification of Schedule 2 development requiring EIA indicate that EIA is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use.
56. In view of the industrial nature of the existing EA activities on the site (albeit now significantly scaled-down from former levels), and the site's highly developed character, I am not persuaded that the proposed development falls in to this category. Moreover, although impacts arising from a residential use of the site would be different to those from an industrial use, I can not readily see that this would bring about a worsening of the situation when compared to what could lawfully take place on the site. Nor is there any firm evidence before me to indicate that there is a high level of contamination on the site. In view of these points I do not consider the proposed development likely to have a significant adverse effect on the environment, notwithstanding the concerns I have expressed earlier regarding the absence of full and necessary information regarding protected species. This information could and should have been submitted by the appellants, but the fact that it has not does not, in my opinion, automatically make this proposal EIA development.
57. Evidence was submitted concerning damage which had been caused to neighbouring dwellings as a result of works undertaken on the EA site in the past. Understandably, in view of the Plotland nature of the adjoining areas and the construction characteristics of these dwellings and their foundations, nearby residents expressed concerns regarding the likely effects of demolition and construction on the site, on their properties. I fully understand these concerns and sympathise with the difficulties which have clearly arisen in the past.
58. However, a different situation would have existed if I had been minded to allow Appeal A as the appellants are fully aware of these concerns from neighbours.

---

<sup>11</sup> Planning Policy Statement 25: *Development and Flood Risk*

<sup>12</sup> Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999/293

<sup>13</sup> DETR Circular 02/99: *Environmental Impact Assessment*

As a result they have submitted a *Method of Construction Statement for both Demolition and Piling Operations*, which could be controlled by means of a planning condition and reviewed and monitored by the Council. As this Method Statement indicates that condition surveys would be undertaken on nearby properties prior to demolition or construction taking place, it seems to me that it would offer the necessary and appropriate safeguards to neighbours.

59. Under CSP policy CC1 the Council states that it will support the provision of renewable energy, energy efficiency and promote sustainable development generally. It sets out a number of ways in which it will expect new development to achieve these objectives, including by requiring residential development to optimise design, layout and orientation to minimise energy use; and by including measures to provide at least 10% of the development's energy demand from on-site renewable energy sources. In support of the application the appellants submitted a Sustainability Statement which covers a variety of matters including urban planning and site design, movement and transport, building performance and construction methods, management and materials.
60. Taken together the measures would contribute to an energy strategy which, amongst other matters, would significantly reduce CO<sub>2</sub> emissions and provide in excess of 10% of the site's energy requirements from renewable sources. CAROD was critical of some of these aspects of the proposal, but these criticisms were not supported by any detailed, contrary evidence from either of its witnesses. As I have noted that the Council's Head of Environmental Services was consulted on this proposal and raised no objections, I see no good reason to seriously question the findings of the Sustainability Statement.
61. On highway matters, although CAROD maintained that the proposed site access would not be of a suitable standard, I am satisfied that the visibility distances achievable would be satisfactory in the light of the submitted speed survey. In reaching this view I have also been mindful of additional measures to alert drivers to the presence of the proposed development, such as variable message signing and surface treatments, to be funded through the S106 Agreement referred to earlier. Together I consider that such measures would ensure the junction operated safely. In this regard, although CAROD and other residents contended that Fordbridge Road had a serious accident record, the submitted accident details for the locality of the appeal site do not support this view.
62. Finally, I have noted that much has been made by CAROD of the fact that the boundaries for this mainland site, shown on the application plans, are differently positioned when compared to other, historic plans submitted in evidence, making the site appear larger than was assumed in the past. However, having regard to a land ownership plan submitted to the inquiry by the appellants I am satisfied that the application plans are accurate and that the only exception to the EA ownership of the site is a small area on the Fordbridge Road frontage which is highway land.

### **Conclusion for Appeal A**

63. In view of the above points, and despite my favourable findings on these latter matters and the third main issue, my adverse findings on the other main issues means that, overall, I conclude that this proposal is not acceptable. I have had regard to all other matters raised, including Court judgements to which I have been referred, but they are not sufficient to outweigh the considerations which have led me to this conclusion. I therefore dismiss Appeal A.

## **Appeals B and C**

64. The EA's witness explained that the existing mainland workshop building, of over 2,000sqm floor area, is over 30 years old and was constructed to its current size and specification because it was formerly used for the manufacture of river structures. However, items such as weir gates, lock gates and barges are no longer manufactured at this site, meaning that the existing workshop is too big for current needs with only about 10% of the floor area in use.
65. Through this proposal the EA therefore seeks to relocate the workshop facility to the island site in a new building with dimensions of 16.5m by 11.8m, rising to a maximum height of just over 6.2m. It would have a curved, green roof and a floor area of some 195sqm and would also provide an associated office facility. It would be sited just to the north of the existing dry dock structure, fairly close to the bank to the backwater. In addition, the proposal seeks to provide a replacement covered storage area and general improvements to existing storage and parking areas together with new landscaping. Like the Councils I do not consider these latter parts of the proposal to be objectionable, especially as the new cover to the storage area would simply replace an existing facility.
66. Planning Policy Guidance 2<sup>14</sup> (PPG2) makes it clear that the construction of new buildings inside a Green Belt constitutes inappropriate development unless it is for one of a number of specified purposes, none of which apply here, and that inappropriate development is, by definition, harmful to the Green Belt. It says that the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development, and that it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The appellants have put forward a number of considerations which they argue, together, result in such very special circumstances. I examine these other considerations later in this decision, but first I consider any other harm arising from the proposal.
67. In doing so I note that an earlier proposal, siting the workshop in the middle of the island site, was refused planning permission by Elmbridge Borough Council but in the current case Elmbridge Planning Officers took the view that the proposed siting and reduced scale of workshop is more sensitive. As a result they considered the current proposal to be acceptable in Green Belt terms and recommended it for approval. A similar situation arose with the proposal submitted to Spelthorne, with Council Officers also recommending approval. However, in both cases Council Members disagreed with their Officers' favourable recommendations. I make my own assessment below.

### *Effect on the openness of the Green Belt and the purposes of including land in it*

68. Policy GB1 of the Spelthorne Borough Local Plan 2001 explains that development within the Green Belt will not be permitted if it would conflict with the purposes of the Green Belt or would conflict with maintaining its openness. In terms of the purposes of including land in Green Belts I share the appellants' view that the proposal could not be considered as conflicting with any of the 5 such purposes set out in paragraph 1.5 of PPG2. The Elmbridge reason for refusal did not cite any development plan policies, but simply argued that the proposal would be contrary to guidance in PPG2. Having said that, I have also had regard

---

<sup>14</sup> Planning Policy Guidance 2: *Green Belts*

to policy GRB2 of the Replacement Elmbridge Local Plan, submitted to the inquiry, which states that the openness of the Green Belt will be preserved.

69. Moreover, paragraph 1.4 of PPG2 makes it clear that openness is the most important attribute of Green Belts and, although not specifically defined in PPG2, this is generally taken to mean the absence of visible development. The proposal would add a new structure on part of the site where none currently stands and, whilst significantly smaller than the existing workshop and also smaller than the dry dock structure, the proposed workshop would nevertheless be of an appreciable size. It would be clearly seen from both the River Thames and the path along its south-eastern bank which forms part of the Thames Path and also a Sustrans long-distance cycle route. The openness of the Green Belt would be reduced and there would be conflict with the development plan policies referred to above. However, as the workshop would be sited close to the existing dry dock in a less prominent part of the site, its resultant impact would, in my opinion, be limited. I therefore only attach a moderate amount of weight to this loss of openness.

#### *Effect on the visual amenities of the Green Belt*

70. I have considered the submitted drawings and, as part of my site visit, I viewed the site of the proposed workshop from the island itself as well as from the south-eastern bank of the river. On balance I am of the view that the size, design and external treatment proposed for the workshop, coupled with its intended positioning against a backdrop of trees and alongside the existing dry dock and covered storage area, means that it would not be unduly prominent or out of keeping with its surroundings. Whilst it would be visible from the path on the opposite side of the Thames, the existing dry dock structure and existing and proposed planting on the island would all serve to shield and filter views of the proposed workshop from many locations on this opposite bank. Accordingly I consider that the visual impact of the workshop would be fairly limited and that this matter should also only weigh against the proposal to a limited extent.

#### *Effect on protected species*

71. An Ecological Assessment of the island site, undertaken by RSK, was submitted to support the applications now the subject of Appeals B and C. The original survey was carried out in January 2008, with the site visited again in July 2009 to identify any changes which may have occurred. The Ecological Assessment recognises the limitations of the surveys which have been undertaken and advises that further surveys are necessary in the case of bats and reptiles, as well as offering advice regarding works likely to affect nesting birds.
72. The SWT responded to both the Spelthorne and Elmbridge applications, noting that no species-specific survey work had yet been completed for the island site. On both applications the SWT further pointed out that this survey work needed to be completed prior to determination so that the Councils could be satisfied that adequate provisions could be incorporated into the proposals to help ensure the development would have no adverse effects on any protected species using the site. Moreover, just before the Appeal B proposal was refused planning permission the SWT wrote again to the Council to stress that it had consistently raised concerns regarding the lack of protected species-specific data for this particular area of the wider site. It further noted that the Council needed to be satisfied that its obligations in respect of safeguarding any legally protected species present on the site had been met.

73. However, as detailed above in relation to Appeal A, despite these clear recommendations the only additional surveys undertaken relate to the *Bat Tree Assessment* for both the mainland and the island sites which was undertaken by RSK on 10 November 2010. I have already concluded that this very recent survey does not address the previously identified requirements and falls far short of responding to the recommendations of the July 2009 report. For the reasons already given I am not satisfied that it provides me with sufficient and adequate information about the likely presence of bats, their likely locations or the type and range of mitigation measures likely to be available to deal with them. Furthermore, it does not provide any additional information on reptiles.
74. As with Appeal A I find that it is not possible for me to conclude that the development proposed through Appeals B and C would result in an acceptable impact on protected species. Accordingly I find the proposal to be at odds with policies EN8 and EN22 of the CSPDPD.

#### *Other harm*

75. Some of the matters put forward by the appellants in favour of this proposal relate to the Riverside Works site as a whole, not just the island site. Because of this I consider it appropriate to have regard to any harm arising on the mainland site which is directly related to the island site proposal. In this regard I highlight the harm which I have already found would arise in layout and safety terms, as a result of HGVs having to pass through and adjacent to "Home Zones" on the mainland site, on a tortuous route, to reach the island site. In my assessment this weighs appreciably against the island proposal.

#### *Other considerations put forward in favour of the proposal*

76. The appellants have put forward several matters which they argue constitute very special circumstances in favour of the proposal. Firstly, the EA explains that it has statutory responsibilities relating to matters such as flood and coastal risk management; maintaining water levels on the River Thames; water resources; navigation; water quality and biodiversity. It also has duties and responsibilities as a Category 1 Responder under the Civil Contingencies Act 2004, including maintenance and refurbishment of river flood risk management control structure components and in dealing with emergencies.
77. I acknowledge that the existing depot is a long established part of the EA's operational activities on this stretch of the River Thames from Teddington to Hurley. Moreover, as already noted, the depot provides an important facility that includes dry dock, workshops, moorings and a slipway and I have no reason to doubt that it is an essential part of the Agency's operations to carry out the aforementioned statutory duties and responsibilities. I further acknowledge that the site is also used for dealing with emergencies, including clearing debris and obstructions from the river and for essential maintenance of the river including dredging and repairing river infrastructure. However, nothing in the evidence placed before me indicates that there are any over-riding operational advantages of moving the workshop to the island site.
78. I understand that a workshop on the island would obviate the need to transfer large items, such as weir gates over the existing bridge on specially adapted lorries, and that this would result in a time saving of about 2 hours each time the bridge has to be crossed and re-crossed. But this is only a small proportion of the total repair time for such items which can, I understand, be as long as 2-3 weeks on some occasions and it is only the larger items which need to be

transported in this way. In any case, it seems to me that whilst there may well be some small time savings and possible safety benefits of not having to strap and un-strap weir gates to the cribs on the converted lorry, these have to be offset against the fact that the island workshop and its associated office facility could well be inaccessible in times of flood.

79. In this regard I have already noted that the island is in flood zone 3a, whereas the mainland site is in flood zone 2. The EA's case is that this would not be a disadvantage, as there would be no access to the river at all in times of flood, so the fact that the workshop building could not be used would be acceptable. However, it is difficult to understand why such a building located outside flood zone 3b would not be at a clear advantage at such times, as work could continue in the office or on items such as weir gates in time of flood, allowing repairs, maintenance work or other work to be undertaken more speedily, with the items being worked on able to be returned to operative use more quickly.
80. In view of these points I am not persuaded, on the basis of the evidence before me, that there would be any particular overall benefit, in terms of the EA being able to discharge its various statutory duties, with a workshop building on the island as opposed to on the mainland. Indeed the EA's various functions appear to have been acceptably carried under the current arrangements, for the 30 years or so that the existing mainland workshop has been in operation with no reported adverse implications. I therefore consider that this matter offers only minimal support to the Appeal B and Appeal C proposal.
81. The second point put forward to support the proposal is the argument that the nature of the functions and activities carried out by the EA requires that the depot should be located on a riverside site with river access via moorings and/or slipway. This appears to me to be fairly self-evident and, indeed, reflects the current situation. It cannot therefore, in itself, weigh in favour of the appeal proposals, for the same reasons as already outlined above.
82. It is also argued that the site is unique as the only EA site with the required combination of a dry dock, workshop and slipway all with 24 hour access. I have already referred to the study commissioned from Savills Chartered Surveyors which found that there are no other suitable and available alternative sites that meet the EA's essential operational requirements, able to serve this section of the River Thames. However, again I find it very difficult to accept that this should add any material weight to the appellant's case, in view of the EA's clear ability to discharge all its duties from its current, albeit split, site.
83. It is of note, however, that in terms of the search criteria used by Savills a requirement was that access roads should be of sufficient width, without low bridges or overhanging tree branches, capable of carrying the national maximum authorised weight of 40 tonnes and providing emergency access 24 hours a day, 365 days a year. As I have already noted, it is difficult to reconcile the deliberate design of an access route to such a facility through a traffic-calmed area containing tight bends on unadopted, private roads, with the concept of good planning to which the appellants have indicated they aspire.
84. The appellants argue that the scale of development is the minimum necessary to meet the EA's operational requirements and that it will not materially harm the openness of this part of the Green Belt given the fact that the site is a long established maintenance depot with a dominant industrial appearance. But I have already concluded that the proposed workshop would result in a loss of openness, although its intended positioning and design would reduce the harm

arising from this. Nevertheless, this clearly constitutes a factor weighing against the proposal and cannot also be considered as lending support to it.

85. The appellants also argue that the proposal would achieve the relocation of the workshop from the mainland site to the island site, enabling the mainland site to be completely vacated and come forward for residential redevelopment in accordance with adopted CSP policy H01 and Allocation H8 of the adopted Allocations DPD. However, this seems to me to be somewhat of a circular argument, as my understanding of the submitted evidence is that it was the fact that the mainland site had been declared surplus to EA requirements that prompted Council interest in it as a possible housing site in the first place. In these circumstances I find it difficult to view this matter as adding any material weight in favour of the appeal proposal.
86. In a similar vein, I have noted the appellants' view that residential use of the mainland site could not be achieved by retaining a replacement workshop facility on it, as this would prejudice the housing allocation and create a difficult relationship between housing and B2 uses. However, in my opinion, and having regard to Spelthorne Council's stance at the inquiry, such a joint use should not be ruled out as a matter of principle as any such proposal would need to be assessed on its merits and subject to detailed design, layout and access considerations. Notwithstanding the current housing allocation there can be no certainty that the EA would be refused planning permission for a replacement workshop on the site if no other suitable location could be found, especially as it is clear that there is some flexibility in the Council's overall housing allocations. Because of these points this is another matter which I do not see as adding any material weight in favour of the proposal.
87. I do, however, accept that the proposal would assist with the proper planning of the area by removing Class B2 general industrial buildings and activities, which currently take place across virtually the whole of the mainland site and which are not subject to planning restrictions or conditions restricting hours of operation etc. The Allocations DPD acknowledges that residential development would be more in keeping with the location and would provide an opportunity to improve the setting of the River Thames and I share these views. In this regard it is of note that even though CAROD is opposed to the Appeal A proposal, it nevertheless accepts that residential development would be appropriate for the mainland site, although it clearly considers that any such development should be of a lower density and different layout.
88. A further argument put forward to support the appeal proposal is the fact that it would provide opportunities for a range of environmental and related benefits that, in the appellants' view, would enhance the appearance of this part of the Green Belt. These are stated as including rationalisation of existing open storage and container areas, parking areas and other structures and a general tidying up of the site, together with new tree planting and other landscaping opportunities, a reduction in the extent of hardstanding areas, and ecological proposals. These actions would undoubtedly be of overall benefit, both in visual and ecological terms, but it is not overly apparent why such matters could not be implemented in any event, without the need for the appeal proposal. I have noted the appellants' argument that EA resources need to be spent on its primary duties and area of responsibility, but I find it difficult to accept that the need to undertake such duties and responsibilities in a way which keeps the site tidy and does not unduly damage the environment falls outside the EA's remit.

89. The final point put forward relates to employment considerations. The appellants maintain that as the current EA workshop-based activities would be relocated to the island site, employing about 20 people comprising office/management staff, workshop staff and fitters, the proposal would provide an opportunity to retain existing local employment. I have no doubt that the EA works currently provide a useful amount of employment, but this is an existing situation and there is no firm evidence before me to suggest that the employment opportunities would increase as a result of the proposal, or reduce if the appeals are dismissed. In these circumstances I find it difficult to ascribe anything more than minimal weight to this aspect of the proposal.

*Effect on the character and appearance of the River Thames (Appeal C)*

90. The second Elmbridge reason for refusal contends that the workshop would be harmful to the character and appearance of the River Thames, by reason of its scale and visibility. It seems to me, however, that the arguments put forward in this regard are very similar to those concerning the impact of the proposal on the visual amenities of the Green Belt, which I have discussed above. For similar reasons to those already given I conclude that the proposal would not have an adverse impact on the character and appearance of the River Thames or the surrounding area. Any visual impact would be limited and not sufficient, in its own right to justify the withholding of planning permission. Accordingly I find no material conflict with policies ENV1, ENV2, RTT1, RTT2 or RTT7 of the Replacement Elmbridge Local Plan all of which, in summary, seek to ensure that new riverside development is of good design and respects the character and environment of its setting.

**Conclusions for Appeals B and C**

91. Having regard to all the above points, and notwithstanding my favourable findings on this last issue relating to Appeal C, I have found a number of matters which weigh against this proposal. There is the general presumption against inappropriate development in the Green Belt and the substantial weight to be attached to the harm so caused, the moderate harm to the openness of the Green Belt and the limited harm arising from the impact on the Green Belt's visual amenities. In addition I have found that harm would also arise as a result of the inconclusive survey situation regarding protected species and the unsatisfactory HGV access route through the adjacent residential area. These points lead to clear conflicts with development plan policies and national guidance as detailed above.

92. I can, of course, fully understand the EA's desire to move the workshop facility to the island site, and it is clear that the EA considers that such a move would bring about operational advantages. However, although a number of other considerations have been put forward by the appellants, it seems to me that they primarily relate to an absence of harm, rather than weighing specifically in favour of the proposal. In terms of the balance which needs to be struck, on the basis of the proposal before me I conclude that these other considerations do not clearly outweigh the harm I have identified. Therefore, the very special circumstances necessary to justify the proposal do not exist and accordingly I dismiss both Appeal B and Appeal C.

*David Wildsmith*

INSPECTOR

---

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITIES:

Mr S Stemp of Counsel	instructed by the Heads of Legal Services of Spelthorne Borough Council and Elmbridge Borough Council
<b>He called:</b>	
Cllr C Sadler	Ward Councillor, Elmbridge Borough Council
MA(Cantab) ACIB	
Mr S Job MA DipTP	Director, Stephen Job Associates Ltd, on behalf of Spelthorne Borough Council
MRTPI	

### FOR THE APPELLANTS:

Mr R Warren of Counsel	instructed by Paul Dickinson & Associates
<b>He called:</b>	
Mr I Fenn BA(Hons)	Partner, John Thompson & Partners LLP
B(ARCH) RIBA	
Mr N Tully MA DipUD	Principal, Neil Tully Associates
CMLI	
Mrs H Hancock	Project Manager, Environment Agency
BA(Hons) DipUPI CIM	
Mr P Dickinson BA(Hons)	Principal, Paul Dickinson Associates
MRTPI MRICS	
FLANDINST MCMCI	

### FOR MRS J GRANT/CAMPAIGN AGAINST RIVERSIDE OVER DEVELOPMENT (CAROD) (RULE 6(6) PARTY)

Mr R McCracken QC	instructed by Mrs J Grant
<b>He called:</b>	
Mrs J Grant	Local resident and representative of CAROD
Mr J Webster	Former local resident and representative of CAROD

### INTERESTED PERSONS:

Miss Silwood	Local resident
Mr R Grant	Local resident

### DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1	List of persons present at the inquiry on each day
Document 2	Letters of notification of the inquiry, and list of persons notified
Document 3	Letter from the Lower Sunbury Residents' Association, endorsing CAROD's evidence, submitted by Mrs Grant
Document 4	Bundle of 12 documents and plans relating to the application to substitute drawings, submitted by the appellants
Document 5	Bundle of 4 documents covering suggested conditions
Document 6	Bundle of Committee Reports, Minutes and Decision Notices, submitted by the appellants
Document 7	Bundle of development plan policies, submitted by the appellants
Document 8	Extracts from the Proposals Maps from the Spelthorne DPD Adopted Proposals Map, December 2009 and the Replacement Elmbridge Borough Local Plan 2000, submitted by the appellants

---

Document	9	Gillespies' Design Brief (and extract of the brief) for the Sunbury Riverside Works, September 2006, submitted by the appellants
Document	10	Statement of 5 Year Housing Supply, submitted by the Councils
Document	11	Copies of 2 of Mr Dickinson's Appendices, re-worked by Mr Job, submitted by the Councils
Document	12	Extract from the National Playing Field Association Six Acre Standard, submitted by the Councils
Document	13	Plan and decision notice relating to a 1999 planning application for the erection of a new workshop on the mainland site, submitted by the Councils
Document	14	Copy of a letter dated 13 September 2010 from Surrey Wildlife Trust to Spelthorne Borough Council, submitted by Mrs Grant
Document	15	Copy of a letter dated 20 October 2009 from Surrey County Council to Spelthorne Borough Council, submitted by Mrs Grant
Document	16	Copy of a letter dated 18 November 2009 from Denis Wilson to Surrey County Council, submitted by Mrs Grant
Document	17	Copy of an email sent 20 November 2009 from Surrey County Council to Denis Wilson, providing Travel Plan comments, submitted by Mrs Grant
Document	18	Copy of an email sent 20 November 2009 from Surrey County Council to Denis Wilson, providing further highways and transport comments, submitted by Mrs Grant
Document	19	Bundle of 3 letters relating to damage to nearby residential properties in the late 1990s, submitted by Mrs Grant
Document	20	Executive Summary of the Gillespies' Design Brief for the Sunbury Riverside Works, September 2006, submitted by the appellants
Document	21	Minutes of the Spelthorne Borough Council Executive, 20 June 2006, at which the Gillespies' Design Brief for the Sunbury Riverside Works was considered, submitted by the appellants
Document	22	Plotland Areas – Policies and Proposals Map extracts, submitted by the appellants
Document	23	Bundle of 2 sets of Accident information, submitted by Mrs Grant
Document	24	Details of the Lower Sunbury Residents' Association (LOSRA), submitted by Mrs Grant
Document	25	Emails from September and November 2010 relating to Freedom of Information Act requests concerning the possibility of a new workshop on the mainland site
Document	26	Enlarged versions of certain pages from Mrs Hancock's evidence, submitted by the appellants
Document	27	Finalised S106 Agreement
Document	28	Bundle of documents relating to policy CO3 and children's play space, submitted by the appellants
Document	29	Note from Denis Wilson on HGV movements, submitted by the appellants
Document	30	Note from Denis Wilson on the Accident Records provided by CAROD, submitted by the appellants
Document	31	Draft of the Gillespies' Design Brief for the Sunbury Riverside Works, July 2005, submitted by the appellants
Document	32	Points raised in cross-examination of Mrs Hancock, submitted by the appellants
Document	33	RSK Bat Tree Assessment, November 2010, submitted by the appellants
Document	34	Summary of Mr Dickinson's qualifications and experience, submitted by the appellants

---

- Document 35 Method of Construction Statement for both Demolition and Piling Operations, submitted by the appellants
- Document 36 Amended list of Appeal A drawings, submitted by the appellants
- Document 37 Extracts from the Spelthorne Local Development Framework Allocations DPD, submitted by the Councils
- Document 38 Copy of an article from JPL Issue 12, 2010 entitled "EIA, SEA and AA, Present Position", submitted by Mrs Grant
- Document 39 Extracts from the Spelthorne Local Development Framework Core Strategy and Policies DPD, submitted by the Councils
- Document 40 Court of Appeal Judgment in the case of Regina (on the application of Morge) v Hampshire County Council [2010] EWCA Civ 608, submitted by Mrs Grant
- Document 41 High Court of Justice Judgment in the case of Regina v Cornwall County Council Ex parte Jill Hardy [2001] Env L R 26, submitted by Mrs Grant

#### **PLANS SUBMITTED AT THE INQUIRY**

- Plans 1 Bound bundle of plans: Main Site Original Application: Island Site Original Application; Appeal Application; Illustrative
- Plan 2 D003 Rev H – Main Site Layout, showing illustrative location for Local Area of Play
- Plans 3(i-iii) 3P6579/TR-37-01 Rev B, 3P6579/TR-37-02 Rev B and 3P6579/TR-38 Rev B, showing swept paths of vehicles, submitted by the appellants
- Plan 4 Land ownership plan

#### **PHOTOGRAPHS SUBMITTED AT THE INQUIRY**

- Photo 1(A-H) Bundle of photographs showing properties in The Creek and on Wheatleys Eyot, together with visualisations of the proposed development, submitted by Mrs Grant
- Photo 2 Base photograph of mainland taken from Wheatleys Eyot, used in visualisations of the proposed development, submitted by Mrs Grant
- Photo 3(i-ii) 2 photographs of the island site with the mainland workshop behind, taken by Cllr Sadler, submitted by the Councils