



Appeal Decision

Inquiry held on 24,25, 26, 27 & 28 November 2013

Site visit made on 11 December 2013 & 16 January 2014

by Lesley Coffey BA (Hons) BTP MRTPI

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

Decision date: 5 March 2014

Appeal Ref: APP/Z5630/A/13/2197943

Seething Wells Filter Beds, Portsmouth Road, Surbiton, Kingston Upon Thames Surrey

- 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 Cascina Ltd (C/O Hydro Properties Ltd) against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 11/16502/FUL, dated 30 September 2011, was refused by notice dated 15 February 2013.
 - The development proposed is the redevelopment of the filter beds to provide a publicly accessible nature reserve, a riverside walk, open space, a 239 sq metre heritage and education centre, a flood storage cell, river taxi drop off point, all to be enabled through the provision of a 92 berth leisure marina and lock gate, 7 residential launch moorings, 64 homes set on a floating pontoon, 300 sq metre restaurant, and ancillary space, associated landscape and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In determining this appeal and arriving at my decision, I have taken into account the Environmental Statement (ES), including the Supplementary Ecology Information and Assessment dated October 2012, and other environmental information produced, in accordance with section 3 (2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
3. I have taken the London Plan Revised Early Alterations (LPREMA), published 11 October 2013, into account in reaching my decision. This updates the London Plan to take account of the policies within the National Planning Policy Framework (the Framework).
4. The appellant submitted an agreement under S106 of the Act. This covenants to either widen the existing access and introduce a new pedestrian phase within the signal junction at Portsmouth Road/Brighton Road; or provide a pedestrian crossing island between the site access and the Seething Wells Campus Access. It also covenants to comply with the Ecological Management Plan, the Landscape Management Plan, the Site Management Plan, the Site Construction And Environment Management Plan, the Travel Plan, and to comply with restrictions on the levels of the dwellings on the floating pontoon.

In addition, it covenants to make financial contributions towards affordable housing, education and highway improvements. I have taken this agreement into account in reaching my decision.

Main Issues

5. I consider the main issues to be:

- Whether the substantial weight that must be attached to the harm by inappropriate development within Metropolitan Open Land and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development;
- The effect of the proposal on openness of the Metropolitan Open Land;
- The effect of the proposal on the heritage assets on the appeal site;
- The effect of the proposal on the character and appearance of the surrounding area with particular reference to the Riverside South Conservation Area; and
- The effect of the proposal on the wildlife and biodiversity of the site.

Reasons

6. The appeal site is situated about 1 mile from Kingston Town Centre and is located opposite the grounds of Hampton Court Palace, a Grade I listed building and Home Park. It comes within the Riverside South Conservation Area. The boundary with the neighbouring Borough of Elmbridge is defined by the south-western boundary of the appeal site.
7. Two previous appeals in respect of the site were dismissed. The most recent appeal¹ in 2003 proposed 59 dwellings with ancillary facilities and the use of the former filter beds area for recreational purposes. The inspector concluded that whilst the proposal would deliver a number of benefits, these would be outweighed by the harm to the character of the area.
8. The site previously formed part of a larger water treatment works and was decommissioned by Thames Water in 1992. It is a broadly rectangular site and is bounded by the River Thames to the west, Portsmouth Road to the east (which occupies higher ground than the appeal site), Thames Waterworks to the south and Harts Boatyard Public House to the north. It includes 7 individual filter beds separated by retaining walls and the former coal wharf at the south-western end of the site. The former pump house building, located on the coal wharf, is designated as a Building of Townscape Merit, and the disused commercial moorings on the outside of the river wall also form part of the appeal site.
9. The proposal is for a floating pontoon which would be located centrally within the site. It would accommodate 64 floating homes. These would be a combination of town houses and apartments accessed via a ramp in a similar position to the existing ramp on the site.
10. The proposed 92 berth marina would be accessed by way of a new lock gate from the River Thames. The proposed restaurant would be situated on the

¹ APP/Z5630/A/02/1095871

former coal wharf close to the former pump house. A car park for use by visitors to the site and marina users would be provided beneath a landscaped deck. The former pump house would be refurbished to provide a heritage and education centre and a marina office, together with toilets and changing rooms.

11. The scheme would provide an area of public open space at the south of the site, and a managed nature reserve at the northern end of the site. The proposal would also provide a riverside walk. The existing commercial moorings on the Thames side of the river wall would be replaced by a floating pontoon which would provide 7 permanent residential moorings. In addition, it is intended that the site would be used as a flood water storage cell to limit the risk of flooding from the river.

Metropolitan Open Land

12. I intend to firstly identify the extent of any inappropriate development within the MOL, and then assess whether there is any other harm to the MOL. My conclusions will inform a final balancing exercise to ascertain whether the extent of the overall harm would be clearly outweighed by other considerations so as to amount to very special circumstances.

Inappropriate Development

13. The appeal site was first designated as Metropolitan Open Land (MOL) in 2005 through the adoption of the Council's Unitary Development Plan First Alteration. This designation was re-affirmed by the Royal Borough of Kingston Upon Thames Core Strategy (adopted April 2012).
14. Policy 7.17 of the London Plan 2011 states inappropriate development within MOL should be refused except in very special circumstances. It provides the same level of protection to MOL as to the Green Belt. Essential ancillary facilities for appropriate uses are only acceptable where they maintain the openness of the Green Belt. LPREMA updates the accompanying text to policy 7.17 to take account of the policies within the Framework. It confirms that the guidance within the Framework in relation to Green Belts applies equally to MOL.
15. The Framework states that the essential characteristics of the Green Belt (and therefore MOL) are their openness and their permanence. It advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
16. Development in the Green Belt (and therefore MOL) is inappropriate (and thus only permissible in very special circumstances) unless it falls within one of the closed lists of exceptions in paragraphs 89 or 90 of the Framework. The parties agree that the proposed dwellings and restaurant are inappropriate development. It is also agreed that the nature reserve, the refurbishment and repair of the pump house building, the proposed heritage and education centre and riverside walk do not constitute inappropriate development. However, the parties differ as to whether the proposed car park and marina constitute inappropriate development.
17. Paragraph 89 of the Framework concerns categories of new buildings that may not be inappropriate, whilst paragraph 90 sets out other forms of development that are not inappropriate. The proposed car park would provide 80 car parking spaces and 28 cycle spaces below a landscaped deck. The car park

would be partially situated below the level of the coal wharf and would extend about 2 metres above the existing ground level. The roof of the car park would be landscaped to integrate it with the remainder of the coal wharf. The Council suggest that the car park constitutes an engineering operation coupled with a change of use. However, whilst it would be largely concealed by the proposed landscaping, it would have walls, a roof, ventilation grilles to the side, a lift and an access ramp. I therefore consider that it constitutes a building rather than an engineering operation. It would therefore fall to be assessed against exceptions within paragraph 89 of the Framework.

18. The second bullet of paragraph 89 advises that the provision of appropriate facilities for outdoor sport or recreation are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The sixth bullet point permits the limited infilling, or the partial, or complete redevelopment of previously developed sites, where it would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
19. The car park would provide parking for those visiting the appeal site, including the nature reserve, riverside walk and publicly accessible open space. However, 35 of the spaces would be reserved for those using the marina, and 7 for the occupants of the residential moorings. In my view, the marina is not in itself a recreational use, but facilitates the recreational use of the river. I am therefore doubtful that the car park can properly be considered as coming within bullet point 2 of paragraph 89. It would therefore fall to be assessed against the sixth bullet point.
20. Both the second and sixth bullet points of paragraph 89 specify that proposals should not have a greater impact on the openness of the Green Belt than the existing development. Although the coal wharf represents previously developed land, with the exception of the pump house building, the remains of any other permanent structures on the coal wharf have, with the passage of time, blended into the landscape. It is therefore predominantly open in character. The car park would occupy a substantial area and would extend above the existing ground level. It would occupy an area of land that is currently undeveloped and would have a greater impact on its openness than the existing use of the site. It would therefore not come within the exceptions at paragraph 89 of the Framework and would represent inappropriate development within MOL.
21. The proposed marina would be contained within the existing filter bed walls. The dividing wall between the filter beds would be removed and a series of pontoons within the filter bed basin would provide leisure moorings. The appellant submits that the marina would be formed within the existing outer walls of the filter beds and include a series of structures (the pontoons) which would be individual buildings falling within the definition of section 336(1) of the 1990 Act. On this basis, the appellant considers that the marina would come within the exceptions listed at either the second bullet point or the sixth bullet point of paragraph 89 of the Framework.
22. The purpose of the marina is to provide 92 berths for the mooring of leisure craft. It would also require the provision of a lock gate and marina office, as well as facilities for emptying holding tanks and refuse storage. Therefore whilst the proposed pontoons may come within the definition of a building,

- their primary purpose is to facilitate the use of this part of the filter beds as a marina.
23. Whilst the provision of the pontoons would have a limited impact on the openness of the MOL, the proposal is for a leisure marina and not a series of pontoons. The fundamental purpose of the marina is to accommodate moored boats, and the physical works necessary to accommodate the marina cannot be separated from the proposed use. This view is consistent with that of the inspector in respect of the Hawkesbury Golf Course case², and the Secretary of State who determined it. I therefore consider that the proposed marina constitutes a material change of use and does not come within the exceptions listed at paragraph 89 of the Framework, it therefore represents inappropriate development.
24. The presence of up to 92 boats, some of which would be up to 13 metres in length and 4.5 metres in width would significantly reduce the openness of the MOL. Thus even if the marina did constitute a new building it would not preserve the openness of the MOL and would conflict with the purposes of including land within it.
25. I am aware that the GLA Stage 1 Report (December 2011) concludes that, on balance, the marina and lock gate can be considered to be appropriate development, provided the impact on the bat population is acceptable. At the time of the report the national policy context for development within the Green Belt was provided by PPG 2. This specified that material changes of use within the Green Belt would not be inappropriate development provided they maintained the openness of the Green Belt. Following the publication of the Framework, material changes of use within the Green Belt are no longer excluded from the definition of inappropriate development. Therefore there has been a significant change in national policy since the time of the GLA report.
26. In addition, I consider the approach within the GLA report to be flawed in that it took account of other policy objectives and the effect of the proposal on the bat population in assessing whether the marina was inappropriate development. Whilst these matters are material considerations in relation to the overall assessment of the proposal, they do not have a bearing on whether the marina constitutes inappropriate development.
27. The report considered by the Council at the time of the application stated that the proposed marina represented an open or recreational use and therefore did not constitute inappropriate development. However, the report does not appear to have assessed the proposal against paragraphs 89-91 of the Framework which sets out the circumstances in which specific types of development may not be inappropriate. Therefore neither the GLA report, nor the Council's Committee report alters my findings above.
28. I conclude that the proposed dwellings, restaurant, car park and marina all represent inappropriate development. In accordance with policy 7.17 of the London Plan and the Framework I attach substantial weight to the harm by reason of inappropriateness.

² APP/W3710/A/2192451 & 2195969

Other Harm to MOL

29. Paragraph 79 of the Framework confirms that the essential characteristics of the Green Belt (and therefore MOL) are their openness and their permanence. In considering the designation of the appeal site as MOL at the time of the UDP inquiry the inspector noted the contribution that the open state of the site made to the character of the locality and the separation it provided between Ditton and Surbiton.
30. The Thames Landscape Strategy (TLS) also acknowledges the significance of the openness provided by the appeal site. It states that it provides a welcome relief from the continuous built up swathe along the Surrey bank from Kingston, through Surbiton and Thames Ditton, to East Molesey.
31. At present the filter beds contain large areas of open water which are substantially free from built development. In addition to the pump house building, and the smaller building to the north east of the site, there are some areas of hardstanding around the filter beds. Notwithstanding this, the filter beds are fundamentally open in character.
32. The proposed dwellings would be centrally located within the site and would occupy much of filter beds 3,4,5, and 6. The proposed residential block would have a length of about 175 metres from north to south. It would occupy a considerable proportion of the site. Due to its size it would significantly reduce the openness of the appeal site and the MOL in which it is situated. The proposed restaurant, together with its decked area, and the car park would further reduce the openness of the MOL.
33. The proposed residential moorings would occupy a similar location to the redundant commercial moorings, but would extend into the river to a much lesser extent. Although the river does not come within MOL, the reduction in the extent to which the moorings encroach on it would be beneficial to the visual amenities of the MOL.
34. Overall the proposal would significantly reduce the openness of the MOL and would also conflict with the purposes of MOL, namely to restrict the sprawl of built-up areas and to prevent neighbouring towns from merging into one another.
35. The loss of openness arising from the proposal would add to the harm by reason of inappropriateness and the proposal would fail to comply with London Plan Policy 7.17 and policy CS3 of the Core Strategy and the Framework. I attach substantial weight to this harm.

Heritage Assets

36. Core Strategy policy CS8 seeks to protect the historic interest of the borough from inappropriate development, whilst policy DM12 aims to preserve or enhance heritage assets through the promotion of high quality design and heritage led regeneration. London Plan policy 7.8 requires proposals to identify, value, conserve, restore, re-use, and incorporate heritage assets where appropriate. This approach accords with the Framework which advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. It states that the desirability of sustaining and enhancing the significance of heritage assets and putting them

to viable uses consistent with their conservation, as well as the positive contribution that conservation of heritage assets can make to sustainable communities, should be taken into account when determining applications.

37. Although the appellant and FOSW differ as to the precise date of the filter beds, it would seem that they were operational by about 1856 and that the existing configuration of the site dates from about 1872 to 1879. The site is part of a larger site that included the Chelsea Coal Store on the opposite side of Portsmouth Road. The Riverside Conservation Area Character Appraisal identifies the industrial/public health heritage represented in the buildings and structures of the water works and their historical interest. This is due to the role of the Chelsea Waterworks in supplying clean water to London from the 19th century onwards.
38. There are a number of listed buildings in the locality, including the former Chelsea and Lambeth Waterworks Coal Stores and the boundary railings to these former waterworks. The proximity of the remainder of the Chelsea and Lambeth estate on the opposite side of Portsmouth Road contributes to the significance of the site.
39. The existing boundary railings to the site and the pump house are identified as Buildings of Townscape Merit. The coal wharf originally provided for the transfer of coal from barges to the coal store on the opposite side of Portsmouth Road. There are two tunnels linking the wharf area to these buildings. The coal travelled in coal trucks by way of an inverted railway which ran under Portsmouth Road. The (blocked) entrance to the Chelsea Coal Tunnel comes within the appeal site, and although the tunnel entrance is no longer visible, it forms part of the Grade II Chelsea Coal Store.
40. The appeal proposal would remove the walls dividing six of the filter beds and part of the river wall to facilitate the provision of a new lock gate. It is also proposed to deepen the filter beds by about 4 metres. The northern-most filter bed would be retained in its entirety as a nature reserve. The coal wharf would be excavated to provide a car park with a viewing platform above, and a restaurant. The pump house would be restored and used to provide marina facilities on the upper floor and a heritage/education centre on the ground floor. In addition, part of the crane run and inverted railway would be restored and a heritage trail would be provided within the site. The capped tunnel entrance would also remain in-situ and the boundary railings would be restored.
41. Although the appeal site is an undesignated heritage asset, due to its historic functional relationship with the listed buildings on the opposite side of Portsmouth Road it is an integral part of their wider setting. It is of considerable historic significance to the local area, including the Riverside South Conservation Area in which it is located. In addition, it has some historical significance to London as a whole, due to its role in providing clean drinking water.
42. Filter bed 7 would be retained in its entirety. The proposal would also retain the filter bed basin in a water-filled state. Neither the increase in the depth of the filter beds, which would take place below the water line, nor the removal of the shells and other material used in the filtration process (which were replaced at regular intervals) would materially harm the historic significance of the appeal site. The loss of the dividing walls within the filter beds, would be

- detrimental to the historic significance of the site in so far as the individual filter beds would no longer be readily apparent. The insertion of the lock gate in the river wall would also harm the historic interest of the site.
43. Whilst the excavations necessary for the car park have the potential to impact on the archaeological significance of the site, the site is no longer thought to retain any archaeological potential for the periods prior to 1852/56. Accordingly, English Heritage does not object to the proposal subject to conditions requiring a programme of archaeological work. The archaeological mitigation strategy requires the entire site to be subject to a pre-construction survey and investigation. Any archaeological remains that cannot be retained in-situ would be fully recorded and consideration given as to whether they can be re-used on site or incorporated into on-site displays.
44. The appellant proposes a number of measures to mitigate any harm to the historic heritage of the site. These include the restoration of the pump house, which is presently in a poor condition. In addition, the Victorian walls and railings along Portsmouth Road would be restored. These works would accord with the aims of policy 7.8 of the London Plan which promotes the restoration and re-use of heritage assets.
45. The proposal would provide an education centre within the pump house building. A heritage trail to link the filter beds to the coal wharf, inverted railway and pump house is also proposed. Part of the inverted railway would be restored and the crane bases on the river frontage would be retained.
46. FOSW suggest that the appellant's approach to the interpretation of the historic heritage of the site is out-dated, and that little detail of the proposed heritage trail has been provided. Whilst I note the different views in relation to the preferred approach to the interpretation of the historic significance of the site, the details of the heritage trail and the heritage centre are matters that could be submitted pursuant to a suitable condition. At present there is no interpretation or explanation of the significance of the site. Whilst some of the local community are aware of, and fully appreciate, its significance, it is doubtful that the wider public understand the historic significance of the appeal site. Therefore the benefits of the proposal in relation to public access, the heritage trail and heritage centre would make the significance of the site accessible to a much wider public.
47. I accept that some of the benefits of the proposal, in particular the restoration of the pump house and the railings to Portsmouth Road, would be expected of any scheme for the site. Nonetheless, these features have been neglected for many years and there is no scheme in place to address their decline. The appeal proposal would deliver the repair and restoration they require and would additionally provide public access, restore additional assets such as the crane run and provide a heritage centre and heritage trail. These would be considerable benefits of the proposal.
48. The loss of the dividing walls between the filter beds, and the insertion of a lock gate within the river wall would give rise to some harm to the historic significance of the appeal site. Whilst the excavations necessary for the car park have the potential to add to this harm, in view of the limited archaeological significance of this part of the site and the proposed mitigation, it would be unlikely to give rise to any significant harm. I therefore conclude that the benefits of the proposal in relation to the heritage assets would

significantly outweigh any harm to the historic significance of the site and the proposal would comply with policies CS8 and DM12 of the Core Strategy and policy 7.8 of the London Plan. This matter weighs in favour of the proposal and I accord it significant weight.

Character and Appearance

49. The listed buildings in the locality include the former Chelsea and Lambeth Waterworks Coal Stores and the boundary railings on the opposite side of Portsmouth Road. Due to similarities in their age, design and original function, which is reinforced by the boundary railings, these buildings have a group value. The historical relationship of the filter beds and the River Thames to these buildings is an integral part of their wider setting. The filter beds are separated from the river by the basin wall and are situated at a much lower level than Portsmouth Road. Notwithstanding this, they are conspicuous due to the openness they afford this part of Portsmouth Road.
50. The Riverside South Conservation Area Character Appraisal identifies the industrial and public health heritage represented in the buildings and structures of the waterworks as contributing to the historic interest of the conservation area. It also highlights the importance of the riverbank to the historic landscape of Hampton Court Palace, as well as the significance and quality of the 19th century public works that established Queens Promenade as a place of public recreation.
51. To the north of the listed buildings, Portsmouth Road is characterised by predominantly two storey suburban architecture, of a domestic scale and style. The conservation area has a linear form and the buildings within it are interspersed with a number of modern blocks of flats. These include Porton Court, a 7/8 storey block of flats situated opposite the filter beds. Although these buildings have been excluded from the conservation area, they nevertheless contribute to its setting and the overall character of the locality. The southern side of Portsmouth Road, where the appeal site is located, is predominantly open in character. Thames Ditton Marina is located to the south of the site beyond the Thames Waterworks. Overall, the conservation area has a mixed character derived from the commercial, recreational and residential uses within it, as well as the variation in the age, architectural style and size of the buildings.
52. The proposal would restore and re-use the pump house building, and facilitate public access to it through the provision of the education and heritage centre. The improvements to the appearance of the building and railings would be beneficial to the setting of the listed buildings on the opposite side of Portsmouth Road. In addition, the proposed works, together with the provision of public access to the building, would enhance the character and appearance of the conservation area.
53. The proposed restaurant would be located on the coal wharf and would include a cantilevered terrace facing towards the proposed marina. The elevations would comprise a combination of glazed walls and green walls. These would combine with the green roof to provide a high quality building of modest appearance. Due to its height and siting it would not have a significant effect on the setting of the listed buildings on the opposite side of Portsmouth Road.

It would provide an amenity for those using the site for recreational purposes, and as such would introduce a greater level of activity to this part of the appeal site. In terms of its appearance and siting, the proposed restaurant would be subservient to the pump house building and would not impede views across the site. I consider that it would not harm the character and appearance of the conservation area.

54. The marina would be situated within the filter bed basin. Whilst it would be visible from Portsmouth Road, it would not interrupt views across the site. It would retain the character and form of the filter beds and preserve the setting of the listed buildings. The use would be consistent with the river related uses that characterise the conservation area and Thames Ditton Marina to the south. Together with the proposed river taxi the use would reflect the aspirations of London Plan policies 7.25 and 7.27, these support the increased use of the Blue Ribbon Network (which includes the River Thames) for passenger and tourist river services and for recreational use. Notwithstanding my findings above in relation to the inappropriate development and loss of openness to the MOL, I consider that the proposed marina would be compatible with the character of the conservation area.
55. The provision of the riverside walk, the publicly accessible open space and nature reserve would all improve the appearance of the appeal site and would also enhance the character of the conservation area. These aspects of the proposal would be consistent with the aims of Core Strategy policy CS4 and policy DM7 which amongst other matters, require proposals to preserve or enhance the waterside character, heritage value and setting.
56. The proposed dwellings would be set within the filter beds and surrounded by water. The apartment blocks would extend about 10.7 metres above water level, whilst the townhouses would be about 9.98 metres above water level. As a consequence, the roofs to the dwellings would be lower than the upper part of the boundary railings, but would generally extend above the height of the boundary wall.
57. The residential pontoon would be about 175 metres in length. It would comprise an apartment block at either end, linked by two terraces of eight houses. An area of landscaping and parking would be provided in the centre of the pontoon deck, and would be largely screened from public views. The dwellings would be contemporary in appearance, with large areas of glazing and white terracotta tiles. The green wall and roofs would add interest to the building. The surrounding area is varied in terms of architectural style and quality. In this context, I consider a contemporary design, such as that proposed, to be acceptable in principle.
58. Due to height of the proposed dwellings relative to Portsmouth Road and their distance from the listed buildings they would not have a significant effect on the setting of the listed buildings.
59. The arrangement of the residential accommodation would permit views from the surrounding residential properties, including Porton Court, over and between the dwellings towards Home Park on the opposite side of the river. Notwithstanding their height, the dwellings would be readily apparent in views from Portsmouth Road, and the open uninterrupted views across the site, identified as a key view within the Core Strategy, would be lost. The proposal would occupy about a third of the site frontage and a much higher proportion

of the length of the filter beds. Due to the size of the floating homes element of the proposal, in particular its length and height, the undeveloped nature of the filter beds would be replaced by built development. The loss of openness would fundamentally alter the character of this part of the conservation area. The Thames Landscape Strategy Review 2012 – Hampton to Kew and the Conservation Area Appraisal both refer to the role of the appeal site in separating Thames Ditton from Surbiton. The openness provided by the site is an intrinsic characteristic of the locality and its loss would harm the character and appearance of the Riverside South Conservation Area.

60. The 2003 appeal scheme was found to have an unacceptable effect on views from the Hampton Court Conservation Area due to the height and extent of the residential development proposed on the coal wharf. In the case of the appeal proposal, the dwellings would be set within the filter bed basin and would not extend above the height of the existing pump house building. Therefore any views of the dwellings from the Barge Walk would be extremely limited. In addition, they would be mitigated by the vegetation adjacent to the river. The proposed lifts to serve the river taxi and residential moorings would extend above the river wall. However, due to their small scale and lightweight appearance, they would not be unduly conspicuous in views from the Barge Walk. I therefore consider that the proposal would not have a significant effect on views from the Hampton Court Conservation Area and would not harm its setting.
61. I find that the proposal would not harm the setting of the listed buildings on the opposite side of Portsmouth Road or the setting of the Hampton Court Conservation Area. The proposed restaurant would alter the appearance of the appeal site but would maintain the character of the coal wharf. The restoration of the pump house building and railings, the provision of open space, the nature reserve and riverside walk would all enhance the character and appearance of the conservation area. The provision of public access to the site and the recreational opportunities it would provide would also enhance the character of the conservation area. Nevertheless, the harm arising from the loss of openness and the scale of the proposed floating homes would outweigh these benefits. Therefore the proposal overall would fail to preserve the character and appearance of the conservation area. I therefore conclude that the proposal would harm the character and appearance of the surrounding area including the Riverside South Conservation Area and would fail to comply with Core Strategy policy DM12.

Biodiversity

62. The appeal site is designated as a non-statutory Site of Borough Grade 1 Importance for Nature Conservation. The reasons given for the designation are the importance of the site for wintering and breeding wildfowl and other birds including sand martins and roosting gulls, the presence of chalk grassland on the concrete substrate lining the basin walls and a colony of Daubenton's bats. The site has been un-managed for a number of years which has resulted in the encroachment of scrub into areas of grassland on the site and along the sides of the filter beds.
63. There are a number of non-statutory sites present within the wider area including the River Thames and Tidal tributaries Site of Metropolitan Importance for Nature Conservation which is situated immediately adjacent to the appeal site. The Home Park Site of Importance for Nature Conservation is

situated on the opposite side of the Thames and FOSW advise that it is due to become a SSSI in the near future.

64. Policy 7.19 of the London Plan adopts a pro-active approach towards biodiversity. Wherever possible, it expects proposals to make a positive contribution to biodiversity; prioritise achieving the targets in biodiversity action plans and/or improve access to nature in areas deficient in accessible wildlife sites; and not adversely effect the population or conservation status of a protected species. It requires sites of borough and local importance to be given a level of protection commensurate with their importance.
65. Policy CS3 of the Core Strategy seeks to promote biodiversity as part of sustainable design and seeks to ensure that new development does not result in a loss of biodiversity, and where appropriate, it seeks new habitats and the provision of natural and semi-natural public green space. Both policies are broadly consistent with paragraph 109 of the Framework which requires proposals to minimise the impacts of development on biodiversity and provide net gains where possible. I therefore accord them considerable weight.
66. The site was the subject of a desk top study and an Extended Phase 1 Habitat Survey in 2010. A series of Phase 2 surveys in relation to bats, breeding birds, winter birds, water voles, reptiles and Chalk Grassland were undertaken in 2010 when the filter beds were in a flooded condition. The filter beds were subsequently drained under licence from the Environment Agency in late 2010, with the exception of filter bed 7. Following this, further surveys in respect of bats, breeding birds, botanical and invertebrates were undertaken in 2011. In addition, a hibernation survey and bat activity surveys were carried out in 2012 based on a methodology agreed with the Council and Natural England.
67. The Council appointed consultants to independently evaluate the appellant's assessment of the nature conservation value of the site, the impacts of the development on the ecological interest of the site and the adequacy of the mitigation proposed. The Council and Natural England are satisfied that the ecological information submitted by the appellant provides a satisfactory basis on which to determine the proposal. As a consequence, Natural England withdrew its objection to the proposal.
68. The appellant's ecological assessment of the site relies on the more recent surveys which were conducted after the filter beds had been drained. FOSW consider that the ecological value of the site was diminished due to the drainage of the filter beds and therefore these surveys do not provide an appropriate baseline against which to assess the effect of the appeal proposal. Moreover, they consider that the historic surveys of the site should be taken into account in assessing the ecological baseline for the site.
69. The filter beds were flooded at the time of the 2010 surveys and they were substantially dry at the time of the 2011 surveys. Natural England considered that neither situation was typical, and that further surveys were necessary to assess the relative significance of the filter beds by Daubenton's and other bat species. These surveys were subsequently completed in 2012. It is inevitable that the ecological interest of the site will vary dependent on environmental conditions, management and natural life cycles. The appellant's reliance on the more recent surveys as the baseline against which to assess the impact of the proposal on the biodiversity and ecological interest of the site accords with guidance from Natural England. This requires surveys to be as up to date as

possible and no more than two to three years old. Therefore taking account of the variations that will arise with the changing water levels, I am satisfied that the Environmental Statement provides a satisfactory baseline against which to assess the ecological impact of the appeal proposal.

70. There are a number of habitats on the site including chalk grassland and standing open water. The most significant ecological interest of the site is due to the bats on the site, the birds, and the chalk grassland.

Bats

71. The various surveys identified a Daubenton's Bat roost within the barge tunnel beneath the western end of the site which supports a maternity colony. Seven other species of bats were recorded foraging on and adjacent to the appeal site, but the surveys found no evidence of other bat species roosting on the site.
72. Additional survey work undertaken in 2012, showed that whilst the filter beds provide a foraging habitat for Daubenton's bats, this forms only part of the foraging resource available to them, and that the River Thames is a more important foraging resource than the appeal site.
73. The common and soprano pipistrelles, together with noctule bats, were recorded widely across the site, but with considerably greater levels of activity on the river. The pipistrelles are able to forage over a wide range of habitats. Smaller numbers of Nathusius' pipistrelle, Leisler's, Brandt and serotine bats were also recorded.
74. FOSW draw attention to the findings of earlier bat surveys which found evidence of a hibernaculum used by soprano bats within the pump house building. Hibernation surveys were carried out in 2010 and 2012. The 2012 survey acknowledges that the desktop study and anecdotal evidence indicate that this building had previously been used as a roost site by soprano pipistrelles, although the most recent records date to 2003. The structures on the site were inspected internally and externally for evidence of bats at the time of the surveys. Both surveys found that the pump house building exhibited no evidence of current or past use by hibernating bats.
75. The London Bat Group was critical of the timing of the 2012 hibernation survey which took place on 27 February. They advise that this was towards the end of the hibernation period, and that due to weather conditions the bats had been active for about a week and therefore the hibernaculum may not have been apparent. Both surveys were carried out by licensed bat workers and accorded with the specifications detailed by English Nature (2004) and Bat Conservation Trust (2007). No convincing evidence was submitted to indicate that the surveys lacked thoroughness. I am therefore satisfied that the appellant has taken reasonable steps to ascertain the likelihood of a hibernaculum within the pump house building.
76. Bats are a European Protected Species. Therefore the proposal needs to satisfy the tests set out under the Conservation of Habitats and Species Regulations 2010. In the event of a breach of Article 12, the applicant would need to apply to Natural England for a derogation licence based on the exceptions set out in Article 16. The appellant submits that subject to the proposed mitigation measures, the proposal would not have an adverse effect on the Daubenton's

bat and therefore there would be no breach of Article 12(1) of the Habitats Directive.

77. In the absence of mitigation the proposal has the potential to impact on the Daubenton's bats during the construction phase through physical damage or destruction of the roosting site, and indirectly due to noise and vibration, or by the reduction in suitable dark foraging habitat due to increased lighting.
78. The Construction and Methodology Plan details measures to mitigate the effects of the proposal on bats during construction. These include the timing of the works, a buffer zone around the barge tunnel and the phased drainage and refilling of the filter beds. These details were revised to take account of Natural England's concerns. On the basis of the additional information provided, Natural England is satisfied that if the Construction and Methodology Plan is strictly adhered to, there would be minimal potential for disturbance to the identified maternity roost. This view is endorsed by the Council's expert consultant, BSG. In these circumstances there would be no breach of Article 12(1) of the Habitats Directive, and the development could be carried out without the need for a licence. This view is supported by the withdrawal of the objection of Natural England.
79. FOSW and the London Bat Group, consider that guidance from Natural England was not from the appropriate expert body in that it came from a Land Use Officer rather than the Wildlife Licensing Unit. It is evident from the extensive correspondence, including that in respect of the survey methodology, that the response from Natural England took account of the relevant statutory duties and tests in relation to the appeal proposal and its potential impact on the bats on the site. The detail of the surveys and the mitigation measures were a direct consequence of advice from Natural England. They show the careful consideration of potential direct and indirect harm to the bats, and the methods of mitigation which could reduce the potential for harm. I am therefore satisfied that Natural England is the appropriate expert body in relation to the appeal proposal and that it gave full and detailed consideration to the potential impact of the proposal on the bats on the site.
80. Post construction the proposal has the potential to harm the bats due to the loss of foraging habitat, the introduction of lighting, domestic animals, human disturbance and marina pollutants.
81. Although the foraging habitat would be reduced in extent, additional planting would be provided to link the bat roost with the nature reserve area. The proposal incorporates a number of measures to support the bat population on the site during the post construction phase. These include a false boat house bat roost to be situated on the nature conservation area/filter bed; the provision of 18 bat boxes of a design suitable for species recorded on site; the provision of a heated roost unit within the renovated pump house; and the provision of new foraging habitat which will be purposely managed for the benefit of ecological resources, including foraging bats.
82. The proposed lighting scheme would provide a dark corridor on the western boundary of the site that would allow bats to forage between the roost and the nature reserve. The proposed lighting scheme would also limit light spillage within the aquatic habitat. Natural England is satisfied that the proposed lighting scheme would minimise any disturbance to the bats. FOSW suggested that the lighting scheme could be improved to reduce the impact of lighting on

bats. I am satisfied that this matter could be addressed by way of a suitable condition.

83. Therefore having regard to the proposed mitigation measures, including the Construction and Methodology Plan, I conclude that the proposal would have a minimal effect on the bats on the appeal site.

Birds

84. Breeding bird surveys in 2010 noted 20 species of breeding birds on the site including 5 pairs of Little Grebe. Following the drainage of the filter beds additional surveys were carried out in 2011. It showed the loss of the little grebe as a breeding species. No significant concentrations of breeding bird species were identified in the updated survey, which found a total of 36 birds on site during the breeding season. This survey additionally found northern lapwing breeding on site. Wintering bird surveys found the site did not support any large wintering assemblages of wildfowl or gulls. A total of 30 species were recorded, 3 species of which are listed in the National BAP (dunnock, lapwing and song thrush).
85. It would seem that the nature of the site has changed considerably since it was first designated. The number of birds declined following the drainage of the filter beds but Mr Quinn, on behalf of FOSW acknowledged that they have recovered to some extent as the filter beds have re-filled.
86. Although the proposed nature reserve would be smaller than the existing area of open water, other areas of the appeal site would continue to provide a habitat suitable for birds and wildfowl. The proposal would create areas of marginal habitat and the provision of a pebble island within a managed nature reserve. Enhancements to the wider site would include trees, areas of scrub and species-rich grassland. These together with the green roofs on a number of the proposed buildings would provide additional foraging habitat for birds and other wildlife. The area surrounding the proposed nature reserve would be partially screened to prevent disturbance to birds, particularly lapwing, resulting from people using the pathway.
87. Mitigation measures would include the provision of nesting boxes such as a nest tower for sand martins and kingfishers, and the long term management of water levels on the appeal site. I therefore conclude that the habitat enhancement, mitigation measures and management of the appeal site would mitigate any harm to the birds on the appeal site.

Chalk Grassland

88. The presence of chalk grass land featuring uncommon species was one reason for the designation of the site as a Site of Grade 1 Borough Importance of Nature Conservation. Chalk Grassland is also a priority habitat under the Surrey Biodiversity Action Plan.
89. In the absence of management, scrub vegetation has encroached on some areas of the species rich grassland on the site. Semi-improved grassland has also encroached upon areas of hardstanding. The surveys found that the most notable species at the time the site was designated have disappeared from the site. The proposal would include the removal of encroaching scrub from the retained areas of grassland and the creation of wildflower rich grassland within the proposed soft landscaping (including the deck over the car park). The

remaining areas of calcareous grassland will be retained where possible, or the soils and seed used to retain the existing biodiversity of the site. The reinstated grassland would be managed for biodiversity. Overall, the proposal would therefore be beneficial in terms of its effect on chalk grassland.

Other Matters

90. The surveys found evidence of a small number of grass snakes on the site. The retention and enhancement of habitats, including species rich grassland, wet grassland and marginal vegetation within the appeal site would provide suitable habitats for reptiles. Therefore the proposal would be unlikely to adversely affect any reptiles present on the site.
91. In view of the proximity of the site to residential dwellings it is probable that a number of cats visit the site at present. Due to the nature of the proposed amenity space and the extent of the surrounding water, I consider that the appeal proposal would be unlikely to significantly increase the number of cats on the site.
92. The proposal would provide public access to a site from which they are currently excluded and would therefore accord with policy 7.19 of the London Plan. Access to the nature reserve would be confined to a footpath route and observation hide. Access would be controlled by a site warden and would be restricted to daylight hours.
93. The marina has the potential to adversely impact on the water habitat and species in and around the filter beds due to disturbance and pollutants entering the water. To minimise these impacts the boundaries of the marina will be defined and boats will not be able to enter any of the water to the east of the marina. The marina will be designed to incorporate appropriate pollution control measures in consultation with the Environment Agency.
94. The standing water on the appeal site was significant due to the wintering wildfowl and the gull roost it supported. The gull roost is no longer present on the site, and there is no persuasive evidence to suggest that wintering wildfowl will not continue to use the site. There would remain significant areas of standing water, both within the proposed nature reserve (filter bed 7) and the areas of water that would surround the residential pontoon. Although the extent of the standing water would be reduced as a consequence of the proposal, its value is dependant on the extent to which the water levels and habitat is managed. When balanced against the habitat enhancements and proposed mitigation measures the reduction in the extent of standing water would be unlikely to significantly harm the ecological interest of the appeal site.
95. The ecological value of the filter beds is directly related to the water levels, which affect both the habitats and the species on the appeal site. In the absence of any management, the filter beds will fill with water. Whilst this would benefit some species, it will result in the loss of other ecological features such as the chalk grassland lining the basin walls, and areas of marginal reed habitat. Whilst the proposal would inevitably introduce an element of change into the site, I conclude that subject to the proposed mitigation measures, including the Construction and Methodology Plan the proposal would not adversely affect the wildlife or biodiversity of the site and would comply with London Plan policy 7.19 and policy CS3 of the Core Strategy.

Other Considerations

Public Open Space and Riverside Walk

96. The proposal would provide about 1 hectare of publicly accessible open space at the southern end of the site, close to the restaurant. It would also include a riverside walk and the infrastructure for a cross-river ferry/taxi service. In addition, the proposal would fund the provision and management of the riverside walk and public open space.
97. At present there is no public access to the site which is situated within an area of open space deficiency as identified by the Kingston Open Space Study (2006). There is a considerable level of local support for the provision of open space within the appeal site which would reflect the aspirations of policy S1 of the Core Strategy. The proposed river ferry/taxi service would enable the public to cross the river and access the Barge Walk and Home Park adjacent to the river. This would greatly increase the ability of local residents to access public open space. The proposal would also accord with policy 7.25 of the London Plan which promotes greater use of the river for passenger and tourist river services.
98. At present there is no riverside walk either at Hart's Boatyard to the north of the site, or on the adjoining Thames Water land which lies within the Borough of Elmbridge. The proposed riverside walk would have the potential to link to the neighbouring sites should proposals for a riverside walk at these sites come forward in the future.
99. The provision of publicly accessible open space and the riverside walk would accord with the aims of London Plan policy 7.27 and the Thames Landscape Strategy which both seek to maximise amenity and recreational uses along the Thames. These features would help to mitigate the existing shortfall in public open space and would enhance the appearance of the appeal site and the conservation area.
100. I acknowledge that the provision of public open space and a riverside walk may well be an expectation of any scheme in this location. Nevertheless, they would be significant benefits of the proposal which would ensure the delivery of these benefits, together with funding for their long term management. I therefore attach significant weight to these aspects of the proposal, including the river ferry/taxi drop-off point.

Nature Reserve

101. I have found above that the appeal scheme would adequately mitigate the effect of the proposal on the biodiversity of the appeal site. Whilst the proposal would have a neutral effect on biodiversity of the site. The provision of a publicly accessible nature reserve and its long term protection and management would be a further benefit of the proposal and I accord it moderate weight.

Flood Storage Cell

102. The appeal site comes within Flood Zone 2 where developers are encouraged to seek opportunities to reduce the risk of flooding through the layout and form of development. Due to the proposed floating home technology the appeal site would have the potential to store water on the site at times of flooding and

subsequently release it in a controlled manner. The appellant suggests that this could remove about 450 sq metres of Kingston Town Centre from the flood plain. Evidence from the Environment Agency suggests that extent of flood attenuation would be considerably less, and would reduce water depths by between 3 and 6 mm. Whilst the proposal may only make a relatively minor contribution towards flood management within the Borough it would nevertheless be a benefit of the proposal and I accord it limited weight.

Leading Edge Technology

103. The appellant states that this would be the first site within the UK to use the floating home technology. In addition, the proposed dwellings would have a high level of sustainability and would incorporate renewable energy, passive design features and water efficiency measures. These elements would enable the proposed dwellings to achieve Level 5 of the Code for Sustainable Homes. Although these matters weigh in favour of the proposal overall, they do not mitigate the harm arising from the inappropriate development within MOL and I accord them minimal weight.

Marina

104. Although the proposed marina would represent inappropriate development and give rise to a loss of openness to the MOL, it would facilitate the recreational use of the River Thames. In this respect it would accord with policy 7.27 of the London Plan and policy CS4 of the Core Strategy. I conclude that the contribution of the marina towards leisure uses would be a benefit of the proposal and in this regard I accord it moderate weight.

Financial contributions

105. Core Strategy policy IMP3 states that the Council will use Planning Obligations to secure financial contributions, or works, to meet on and off-site infrastructure requirements necessary to support and mitigate the impacts of development.
106. In relation to the education contribution, the Council advise that there has been a significant rise in the demand for school places since 2008, due to an increase in the birth rate and housing growth. The appeal proposal would be likely to add to the demand for both secondary and primary places within the area. The education contribution has been calculated in accordance with the Council's supplementary planning document Planning Obligations (amended Sept 2011). The contribution would be used to increase pupil capacity at schools within the Borough. I am satisfied that the contribution is necessary to make the development acceptable and would meet the statutory tests within Regulation 122.
107. Core Strategy policy DM 1 requires proposals to have regard to local traffic conditions and highway safety. The proposal would require off-site highway improvements, and would also have some impact on local highway networks. The financial contribution sought would fund these requirements and I am satisfied that it would meet the statutory tests within Regulation 122. I therefore conclude the financial contributions sought by the Council are reasonable and necessary, and would comply with the tests within Regulation 122.

Affordable Housing

108. The provision of affordable housing is a key strategic policy in the London Plan. Policy 3.12 seeks to maximise the provision of affordable housing throughout London. It acknowledges the need to encourage rather than restrain residential development and to consider the individual circumstances of the site. Core Strategy policy DM15 has a similar intent. It advises that on sites of 10 units or more, 50% of dwellings should be provided as affordable housing.
109. The appeal proposal would not provide any affordable housing on the appeal site but would make a financial contribution of £219,000 towards the provision of affordable housing off-site. The s106 agreement includes provision for a deferred contribution which would be 50% of any surplus subject to a limit of £500,000.
110. The appeal proposal would deliver a number of public benefits, and the cost of providing these clearly influences the amount of affordable housing the proposal can support. A financial appraisal submitted by the appellant at the time of the application was independently reviewed on behalf of the Council. This concluded that the appeal scheme could not support any addition affordable housing or further planning obligations. The Council did not dispute the conclusions of an updated viability appraisal provided to the Inquiry by the appellant.
111. Whilst the viability assessment demonstrates that the extent to which the appeal proposal can support affordable housing is limited, the level of provision falls far short of that generally required by the London Plan and Core Strategy. In these circumstances I consider that the provision of affordable housing is not a benefit of the proposal, it simply does not add to the harm.

River Use

112. The stretch of the river which the appeal site adjoins is used by many sporting and recreational clubs. The River Thames Sports Alliance (RTSA) considers that the proposal would significantly reduce the navigable area of this part of the river, and this, together with the increase in motor boat traffic would introduce navigational conflicts between different users. It considers that this could be potentially dangerous and give rise to a 'no-go-zone' on a very busy stretch of river. The RTSA is particularly concerned about the impact of the proposal on the Thames Sailing Club because it operates close to the appeal site, and the need for sailing boats to tack across the river.
113. The proposal would replace the existing commercial moorings, derelict barges and pontoons with a floating pontoon with space for seven permanent residential mooring vessels. This would extend into the river by approximately 6.6m, whereas the existing commercial moorings extend into the river by between 4.5metres and 14 metres. Therefore the navigable river width would generally be increased as a consequence of the proposal.
114. The appellant suggests that there would be a maximum of about 30 vessels entering and exiting the marina in any one day (i.e. 60 vessel movements). This would not represent a significant increase in overall river traffic. Boats currently enter and leave the Thames Ditton Marina Lock a short distance to the south of the appeal site in a similar manner to that proposed. There is no evidence to suggest that these movements have given rise to any navigational

conflicts with other river users. Subject to satisfactory management arrangements to restrict access to and from the marina at appropriate times, the proposal would be unlikely to be hazardous for other river users.

115. The appellant carried out four site observations in July and August both during the week and at weekends, at times when the Thames Sailing Club was operating. In addition to the sailing boats, other vessels using the river included passenger ferries (to and from Hampton Court), motor cruisers, narrow boats, motor launches and rowing boats. The surveys were conducted at a busy time of year for river related activities, and although the findings were disputed by RTSA, no evidence to the contrary was provided.
116. Due to the considerable range of activities on this stretch of river there is potential for conflict between the various users, due in part to the need for the sailing club to use the full width of the river. However, not all groups use the river at the same time and the various users, including the sailing club, currently operate together with all other river users and each is responsible for operating safely.
117. The appellant proposes a management company which will include occupiers and users of the site, representatives of local businesses and community organisations such as the Thames Sailing Club and the RTSA. Amongst other matters, this will address how the lock will be used and managed in order to avoid any potential conflicts with other river users. Both Sport England and the Environment Agency are satisfied that any potential conflict with other river users could be addressed by way of a suitable management plan. Therefore, on the basis of the available evidence, I am satisfied that the proposal would not give rise to any significant harm to other river users.

Enabling Development

118. The appeal site has been vacant since 1992 and its condition has deteriorated in the intervening period. It is evident that in the absence of any management, or other intervention, the appearance of the site will continue to decline and there could be a negative impact on wildlife and heritage assets on the site.
119. The proposal would deliver a number of benefits including the refurbishment of the pump house building, a managed nature reserve, a heritage centre and trail, a riverside walk and public open space. The appellant submits that the proposed restaurant, marina, residential development, parking and residential moorings are necessary to provide these benefits and fund their future management.
120. Paragraph 140 of the Framework advises that the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset should be assessed to see if they would outweigh the dis-benefits of departing from those policies. English Heritage published updated guidance in 2008 in respect of enabling development and the conservation of significant places. Although it focuses on heritage matters, the principles within it provide a useful means against which to assess the proposal. The guidance places great importance on the public benefit of securing the future of the significant place through such enabling development. The key elements of the guidance are that it should be demonstrated that the amount of enabling development is the minimum

necessary to secure the future of the place, and that its form minimises harm to other public interests.

121. The benefits of the proposal would be considerable, not only in relation to the restoration of the site and the provision of facilities for the public, but would also secure the long term future and management of the site. The appellant considers that the appeal proposal represents the minimum development necessary to provide the benefits of the proposal. The viability assessment found that without the proposed dwellings the development would not be viable. This is not disputed by the Council.
122. The English Heritage Guidance advises that applicants need to demonstrate that real efforts have been made without success, to continue the existing use or to find compatible alternative uses. This would normally include marketing evidence. No marketing evidence was submitted by the appellant. Whilst I do not doubt the need for enabling development, no evidence has been submitted to persuade me that the benefits of the proposal could not be delivered by an alternative scheme, or a lesser amount of development.
123. On behalf of the FOSW it was suggested that alternative funding may be available, perhaps from the Heritage Lottery Fund. Whilst FOSW, or other amenity groups, may in the future secure adequate funding to acquire, restore and manage the site, these efforts would appear to be at a very early stage, and there is no such scheme in place at the present time. Moreover, no persuasive evidence was provided to suggest that such a scheme would come forward in the near future. Mr Grincell stated following an informal approach to the Heritage Lottery Fund he was advised that funding would not be forthcoming. However, it is unclear whether an alternative community led scheme would be considered more favourably. On the basis of the available evidence I consider that it would be difficult for a community led scheme to acquire, restore and manage the site.
124. In order to deliver the public benefits of the proposal it is likely that some enabling development would be necessary. Notwithstanding this, I am not convinced that the appeal scheme represents the only means by which these benefits can be delivered. Therefore only limited weight attaches to the development as a method of achieving these ends.
125. The proposed dwellings would contribute to the housing supply within the Borough. The appellant does not dispute that the housing policies of the Local Planning Authority are up to date or that the Council is able to demonstrate a five year supply of housing land. Therefore the provision of additional dwellings does not add weight in favour of the proposal.

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

126. The proposal represents inappropriate development of MOL. It would also significantly reduce the openness of the MOL and conflict with the purposes of MOL, namely to restrict the sprawl of built-up areas and to prevent neighbouring towns from merging into one another. In accordance with the Framework and the policies within the London Plan and the Core Strategy, I attach substantial weight to this harm. Whilst the proposal would not harm

the setting of the listed buildings in the locality, I attach significant weight to the harm to the character and appearance of the surrounding area.

127. Balanced against this harm there would be a number of benefits arising from the proposal. These include the benefits in relation to the Heritage assets on the site; the provision of publicly accessible open space and the riverside walk; the publicly accessible nature reserve; the flood cell storage; the recreational opportunities provided by the development, including the marina.
128. I have found that the proposal would not harm the biodiversity of the site, or give rise to any harm to the other users of the river. However, neither these matters, nor the provision of affordable housing, weigh in favour of the proposal, they merely do not add to the harm.
129. The benefits that would be delivered by the proposal are considerable, however they must be weighed against the substantial harm to the MOL and character and appearance of the area. I find that these other considerations in support of the development do not individually or cumulatively, clearly outweigh the harm to the MOL and the character and appearance of the area, so as to justify the proposal on the basis of very special circumstances.
130. In reaching my conclusions I have taken account of the views of local residents and amenity groups. Whilst I am aware that many residents oppose the development of the filter beds, there are also a significant number of residents who support the appeal proposal and are eager to see the site put to beneficial use and public access. However, local support or opposition for a proposal is not in itself a ground for refusing or granting planning permission and such support does not justify the harm that I have identified above.

Conclusion

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

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Strachan QC	Instructed by Nicholas Bishop
He called	
Jeffrey Field MA DIPTP	Planning Consultant
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FOR THE APPELLANT:

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He called	
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INTERESTED PERSONS:

Anthony Wileman	London Wildlife Trust
Jill Green	
Sharron Sumner	
Mr Lucas	
George Rome Inness	
Ann Brown	
Adrian Beales	
Dr Colin Stern	

DOCUMENTS

- 1 Patrick Grincell table of land uses submitted by the Appellant
- 2 Newspaper article dated 20 May 2011 submitted by the Appellant

- 3 Appeal decision reference APP/B9506/A/13/2195441 submitted by the Council
- 4 Appeal decision reference APP/W3710/A/13/2192451 submitted by the Council
- 5 Plan showing distribution of public open space submitted by the Council
- 6 Development Control Committee 22 January 2013- Minutes of and details of late material submitted by the Council
- 7 E mail dated 21 November 2013 from Environment Agency submitted by the Council
- 8 Schedule of UK BAP Priority habitats submitted by Anthony Quinn
- 9 Comments on lighting submitted by Sharron Sumner
- 10 Revised plan showing no go zone on river submitted by FOSW
- 11 London Wildlife Trust comments submitted by Anthony Wileman
- 12 Additional comments on rebuttal proofs submitted by Mr Godwin
- 13 WWT letter dated 5 August 2012 submitted by the Appellant
- 14 Comments in relation to FOSW Heritage rebuttal statement submitted by Duncan Hawkins
- 15 Note clarifying scale of submitted plans submitted by the Appellant
- 16 Plan clarifying area of land uses on site submitted by the Council
- 17 Justification of s106 contributions submitted by the Council
- 18 Amended list of suggested conditions
- 19 Response to Sharron Sumner's lighting note submitted by the Appellant
- 20 Amended list of agreed plans
- 21 S106 Agreement submitted by the Appellant

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