

Development at 1-3 Chase Road Epsom KT19 8TL

Variation of Condition 4 (Contaminated Land) of planning permission 15/01530/FUL to permit the verification report to be completed pre-occupation rather than pre-commencement.

Ward:	Town Ward;
Contact Officer:	John Robinson

1 Plans and Representations

- 1.1 The Council now holds this information electronically. Please click on the following link to access the plans and representations relating to this application via the Council's website, which is provided by way of background information to the report. Please note that the link is current at the time of publication, and will not be updated.

Link: <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PIJWIMGYLHV00>

2 Summary

- 2.1 This application seeks the variation of Condition 4 (Contaminated Land) of planning application 15/01530/FUL, granted on appeal by the planning 03/07/2017 to allow the verification report to be completed at the pre-occupation stage instead of the pre-commencement.
- 2.2 The variation of the condition would not result in the development posing unacceptable risks to workers, neighbours and other offsite receptors, contrary to Policy DM17 of Development Management Policies Document 2015.
- 2.3 The application is therefore recommended for APPROVAL subject to conditions**

3 Site description

- 3.1 The site is located on the south side of Chase Road, and is bounded by the Epsom - Ewell West railway embankment to the east, and the rear gardens of properties fronting Chase Road and Chase End to the west and south west respectively.
- 3.2 The surrounding area is predominantly residential, the immediate area characterised by inter-war period semi-detached houses, with rendered elevations under hipped tile roofs, of similar scale and appearance.

- 3.3 Planning permission (15/01530/FUL) for the demolition of existing buildings on site to allow for the redevelopment of 2 three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works was granted on appeal by the planning inspectorate on 3 July 2017
- 3.4 The scheme is currently under construction.

4 Proposal

- 4.1 The application seeks the variation of Condition 4 (Contaminated Land). The original condition was worded as follows:

- (4) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1.1 to 1.5 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 1.4 has been complied with in relation to that contamination.**

1.1 Site Characterisation

An intrusive ground investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination including any ground gas and volatile vapours;

(ii) an assessment of the potential risks to:

- human health;**
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;**
- adjoining land;**
- groundwaters and surface waters;**
- ecological systems;**
- archaeological sites and ancient monuments;**

(iii) an appraisal of remedial options (if remediation is deemed necessary), and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.2 Submission of Remediation Scheme - if deemed necessary

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared if deemed necessary based on the findings of the site characterisation and risk assessment. This is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

1.3 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

1.4 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 1.1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1.2, which is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land).

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.3.

1.5 Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.6 Certificate of Completion

A certificate of completion, shall be provided to the Local Planning Authority by an appropriate person, before occupation of any part of the site by any end user, stating that remediation has been carried out in accordance with the approved remediation scheme and 'that the site is suitable for the permitted end use.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, Policy DM17 of Development Management Policies 2015.

4.2 The proposed amended wording is set out below (changes highlighted in bold text):

(4) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1.1 to 1.5 (**excluding 1.3**) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 1.4 has been complied with in relation to that contamination.

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An intrusive ground investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination including any ground gas and volatile vapours;

(ii) an assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options (if remediation is deemed necessary), and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.2 Submission of Remediation Scheme - if deemed necessary

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared if deemed necessary based on the findings of the site characterisation and risk assessment. This is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

1.3 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the **occupation commencement** of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

1.4 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 1.1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1.2, which is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land).

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.3.

1.5 Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.6 Certificate of Completion

A certificate of completion, shall be provided to the Local Planning Authority by an appropriate person, before occupation of any part of the site by any end user, stating that remediation has been carried out in accordance with the approved remediation scheme and 'that the site is suitable for the permitted end use.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, Policy DM17 of Development Management Policies 2015.

5 Comments from third parties

- 5.1 The application was advertised by means of letters of notification to 7 neighbouring properties. To date (01.02.2019) no letters of objection have been received regarding:

6 Consultations

- 6.1 Contaminated Land Officer: No objection.

7 Relevant planning history

Application number	Decision date	Application detail	Decision
15/01530/FUL	18.10.2016	Demolition of existing buildings on site to allow for the redevelopment of two three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works.(Description amended, and amended drawings received 28.08.2016)	REFUSED. Appeal GRANTED 03.07.2017
17/01811/NMA	13.04.2005	Non-material amendment to extant permission 15/01530/FUL (Demolition of existing buildings on site to allow for the redevelopment of two three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works) to permit the reconfiguration of the internal layout of buildings.	GRANTED
18/00139/NMA	29.05.2018	Non-material amendment to extant permission 15/01530/FUL (Demolition of existing buildings on site to allow for the redevelopment of two three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works) to permit the reconfiguration of the internal layout of buildings.	GRANTED
18/00501/COND	01.02.2019	Details pursuant to Condition 3(CTMP), 6 (Materials), 7 (Landscaping) and 8 (Sections) of planning permission 15/01530/FUL	DISCHARGED

18/01134/COND		Details pursuant to Condition 5 (Drainage) of planning permission 15/01530/FUL	UNDER CONSIDERATION
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8 Planning Policy

National Policy Planning Framework (NPPF) 2018

Chapter 15: Conserving and enhancing the natural environment

Core Strategy 2007

Policy CS6 Sustainability in New Developments

Development Management Policies Document 2015

Policy DM17 Contaminated Land

9 Planning considerations

Proposed Amendment to Condition 4 (Contaminated Land)

- 9.1 The applicant has justified the proposed amendment to condition 4 by stating that the wording used in the original approved application (15/01530/FUL) described the condition as a pre-commencement condition. However, they state that the information required to discharge it can only be provided at the end of the construction period as it refers to the chemical certification analysis of the final top soil dressing provided in the new gardens and green areas.
- 9.2 They propose that once the development has been completed they would then complete the soil remediation and landscaping works and present one verification report to the Contaminated Land Officer covering soil remediation approval. Once the verification report has been approved, the condition could be discharged.
- 9.3 The E&E Contaminated Land Officer has considered the proposed amendment and justification and has no objections as the officer acknowledges that *“remedial works would normally be undertaken during the latter parts of the construction process upon nearing completion on site, and this would not be possible with a “pre-commencement” condition imposed”*
- 9.4 It is therefore considered that the proposed variation would not result in the development posing an unacceptable risk to workers, neighbours or any other offsite receptors by the amendment to the contaminated land condition.
- 9.5 The variation in condition will allow the development to progress and is considered to be acceptable.

10 Conclusion

- 10.1 In accordance with the statutory requirements, officers conclude that the variation sought is acceptable, and would not result in the development being substantially different from the one which has been approved.

11 Recommendation

- 11.1 It is recommended that planning permission be granted subject to the to the conditions detailed below

Conditions:

- (1) **The development hereby permitted shall be commenced within 3 years from the 3 July 2017, the date of the originally approved application 15/01530/FUL that is subject to this application to variation.**

Reason: In order to comply with Section 91 of the Town and Country Planning Act, 1990. (As amended)

- (2) **The development hereby permitted shall be carried out in accordance with the following approved plans:**

412.18.PL1000 Site Location Plan,

412.18.PL1002 Proposed Site Plan,

412.18.PL30.01 Proposed Floor Plans - Block A,

412.18.PL30.02 Proposed Floor Plans - Block A,

412.18.PL40.01 Proposed Floor Plans - Block B,

412.18.PL40.02 Proposed Floor Plans - Block B,

Accommodation Schedule dated 01.05.2018

A3001 Proposed North Elevation Building 1 J

A3002 Proposed South Elevation Building 1 J

A3003 Proposed East Elevation Building 1 H

A3004 Proposed West Elevation Building 1 H

A3005 Proposed North Elevation Building 2 J

A3006 Proposed South Elevation Building 2 H

A3007 Proposed East Elevation Building 2 H

A3008 Proposed West Elevation Building 2 H

A3101 Proposed Cross Section AA' E

A3102 Proposed Cross Section BB' E

A4101 Proposed Landscaping Ground Floor Plan H

A4102 Proposed Landscaping Levels 1 Floor plan H

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans to comply with Policy CS5 of the Core Strategy (2007).

- (3) All development shall be in accordance with the Construction Transport Management Plan, approved under application 18/00501/COND dated 01.02.2019**

Reason: To ensure that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy (2007) and Policy DM35 of the Development Management Policies 2015.

- (4) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1.1 to 1.5 (excluding 1.3) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 1.4 has been complied with in relation to that contamination.**

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property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;

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Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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In the event that contamination is found at any time when carrying out the approved development that was not previously identified it

must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 1.1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1.2, which is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land).

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Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.6 Certificate of Completion

A certificate of completion, shall be provided to the Local Planning Authority by an appropriate person, before occupation of any part of the site by any end user, stating that remediation has been carried out in accordance with the approved remediation scheme and 'that the site is suitable for the permitted end use.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, Policy DM17 of Development Management Policies 2015.

- (5) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the**

potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b. include a timetable for its implementation; and,

c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure the Sustainable Drainage System has been constructed as agreed and complies with the requirements of the national SuDS technical standards.

- (6) Details and samples of the materials to be used for the external surfaces of the development shall be in accordance with the materialssamples and details approved under application 18/00501/COND dated 01.02.2019**

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies 2015.

- (7) Hard and soft landscaping shall be in accordance with the details approved under application 18/00501/COND dated 01.02.2019**

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

- (8) The development shall be carried out in accordance with the approved details (including head, sill and window reveal details, balcony balustrade, rainwater goods) approved under application 18/00501/COND dated 01.02.2019**

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with

Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies 2015.

- (9) No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for a maximum of 13 cars and a minimum of 14 bicycles to be parked. The parking area shall be used and retained exclusively for its designated use.**

Reason: To ensure that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy (2007) and Policy DM35 of the Development Management Policies 2015.

- (10) Prior to occupation of the new development, a scheme of public highway improvements as shown on the application drawings including:**

i) the alteration of the refuge island in Chase Road to make a crossing point for pedestrians

ii) the removal of the layby to the front of the application site and replacement with a footway

iii) the provision of pedestrian dropped kerbs for accessibility

shall be designed in detail, approved by the Highway Authority and constructed by the developer under an appropriate agreement with the Highway Authority.

Reason: To ensure that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy (2007) and Policy DM35 of the Development Management Policies 2015.

- (11) The development hereby approved shall not be first occupied unless and until the proposed vehicular modified access to Chase Road has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.**

Reason: To ensure that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy (2007) and Policy DM35 of the Development Management Policies 2015.

- (12) Prior to occupation of the new building, bat and bird boxes shall be installed in accordance with details submitted to and approved by the local planning authority. The boxes shall be retained thereafter.**

Reason: To enhance biodiversity and nature habitats in accordance with Policy CS3 of the Core Strategy 2007 and Policy DM4 of the Development Management Policies Document 2015

Informatives:

- (1) The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 38 of the National Planning Policy Framework 2018**

- (2) This form of development is considered liable for the Community Infrastructure Levy (CIL). CIL is a non-negotiable charge on new developments which involve the creation of 100 square metres or more of gross internal floorspace or involve the creation of a new dwelling, even when this is below 100 square metres. The levy is a standardised, non-negotiable charge expressed as pounds per square metre, and are charged on the net additional floorspace generated by a development. You will receive more information regarding the CIL in due course. More information and the charging schedule are available online**

<http://www.epsomewell.gov.uk/NR/exeres/74864EB7-F2ED-4928-AF5A-72188CBA0E14,frameless.htm?NRMODE=Published>