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Legal and Democratic Services



PLANNING COMMITTEE

Thursday 10 March 2022 at 7.30 pm

Place: Council Chamber - Epsom Town Hall

Link for public online access to this meeting:

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The members listed below are summoned to attend the Planning Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Monica Coleman (Chair)
Councillor Steven McCormick (Vice-Chair)
Councillor Kate Chinn
Councillor Nigel Collin
Councillor Neil Dallen
Councillor David Gulland
Councillor Previn Jagutpal

Councillor Jan Mason
Councillor Lucie McIntyre
Councillor Phil Neale
Councillor Humphrey Reynolds
Councillor Clive Smitheram
Councillor Clive Woodbridge

Yours sincerely

Chief Executive

For further information, please contact Democratic Services, email: democraticservices@epsom-ewell.gov.uk or tel: 01372 732000

EMERGENCY EVACUATION PROCEDURE

No emergency drill is planned to take place during the meeting. If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions.

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move to the assembly point at Dullshot Green and await further instructions; and

- Do not re-enter the building until told that it is safe to do so.

Public information

Please note that this meeting will be held in the Town Hall, Epsom and will be available to observe live on the internet.

This meeting will be open to the press and public to attend as an observer using free GoToWebinar software, or by telephone.

A link to the online address for this meeting is provided on the first page of this agenda and on the Council's website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection. A limited number of seats will also be available in the public gallery at the Town Hall. For further information please contact Democratic Services, email: Democraticservices@epsom-ewell.gov.uk , telephone: 01372 732000.

Information about the terms of reference and membership of this Committee are available on the [Council's website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for the Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at Democraticservices@epsom-ewell.gov.uk.

Public speaking

Public speaking in support or objection to planning applications is permitted at meetings of our Planning Committee. If you wish to speak at a Planning Committee meeting, you should come to the reception area of the town hall in person between 6.00pm and 7.00pm on the night of the meeting to register. It is not possible to pre-register prior to this. If a number of people wish to speak on a particular application you will normally be asked to nominate a single representative from amongst you. Further information is available from our [website](#) or by contacting democraticservices@epsom-ewell.gov.uk.

Exclusion of the Press and the Public

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985. Should any such matters arise during the course of discussion of the below items or should the Chairman agree to discuss any other such matters on the grounds of urgency, the Committee will wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

Filming and recording of meetings:

Those wishing to take photographs or record meetings are asked to read the Council's 'Recording, Photography and Use of Social Media Protocol and Guidance' ([Section 10, Part 5 of the Constitution](#)), which sets out the processes and procedure for doing so.

Security:

Please be aware that you may be subject to bag searches and will be asked to sign in at meetings. Failure to comply with these requirements could mean you are denied access to the meeting. There is also limited seating which is allocated on a first come first serve basis, you should aim to arrive at least 15 minutes before the meeting commences.

Guidance on Predetermination /Predisposition

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

AGENDA

1. DECLARATIONS OF INTEREST

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

2. MINUTES OF THE PREVIOUS MEETING (Pages 7 - 10)

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Planning Committee held on 17 February 2022 (attached) and authorise the Chairman to sign them.

3. 107-111 EAST STREET, EPSOM, KT17 1EJ (Pages 11 - 62)

Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 21 residential flats with associated car and cycle parking and refuse storage.

4. LAND REAR OF 23A TO 33 LINKS ROAD, EPSOM (Pages 63 - 86)

Erection of three dwellings with associated access, parking, landscaping and other minor ancillary development.

5. 21/01406/FUL 140 - 142 RUXLEY LANE, WEST EWELL, SURREY, KT19 9JS (Pages 87 - 124)

Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping.

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Minutes of the Meeting of the PLANNING COMMITTEE held at the Council Chamber, Epsom Town Hall on 17 February 2022

PRESENT -

Councillor Monica Coleman (Chair); Councillors John Beckett (as nominated substitute for Councillor Lucie McIntyre), Kate Chinn, Nigel Collin, Neil Dallen, David Gulland, Previn Jagutpal, Jan Mason, Phil Neale, Humphrey Reynolds, Clive Smitheram and Clive Woodbridge

Absent: Councillor Steven McCormick and Councillor Lucie McIntyre

Officers present: Lidia Harrison (Legal Officer), Justin Turvey (Planning Development Manager), Virginia Johnson (Principal Planning Officer) and Stephanie Gray (Democratic Services Officer)

27 DECLARATIONS OF INTEREST

Declarations of Interest

107-111 East Street, Epsom, Surrey, KT17 1EJ

Councillor Monica Coleman, Other Interest:

In the interests of openness and transparency, Councillor Monica Coleman declared that she had received several emails regarding this item, but that she was not pre-determined and had come to the meeting with an open mind.

7 Station Approach, Stoneleigh, Surrey, KT19 0QZ

In the interests of openness and transparency, Councillor Monica Coleman declared that she had received several emails regarding this item, but that she was not pre-determined and had come to the meeting with an open mind.

Declarations of Interest

Councillor Neil Dallen, Other Interest: In the interests of openness and transparency, Councillor Neil Dallen declared that he is a member of the Epsom Civic Society and the Epsom Town Ward Civic Society. He stated that he came to the meeting with an open mind.

Declarations of Interest

Councillor Nigel Collin, Other Interest: In the interests of openness and transparency, Councillor Nigel Collin declared that he is a member of the Epsom Civic Society and declared that he is the Borough's Heritage Champion. Councillor Collin declared that he came to the meeting with an open mind.

28 MINUTES OF THE PREVIOUS MEETING

The Minutes of the previous meeting of the Committee held on 13 January 2022 were agreed as a true record and signed by the Chair.

29 107 - 111 EAST STREET, EPSOM

Description

Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 21 residential flats with associated car and cycle parking and refuse storage.

Decision

The Committee noted a presentation from the Principal Planning Officer.

The following points were raised by the Committee:

- a) Access Road: a document shown at Committee indicated that the Applicant is the owner of the access road, whereas the owner of the access road has been noted in the report as being the Borough Council. Clarity on the ownership of the access road will need to be obtained in order to enable the Planning Committee to take a decision with full information on this point.

Councillor Neil Dallen proposed a deferral. This was seconded by Councillor Clive Smitheram. The reason for deferral was to allow officers to obtain clarity on the ownership of the access road as well as the legal status of rights of way.

Following consideration, the Committee resolved with 11 Members voting for deferral, and the Chair not voting that:

The Application be DEFERRED to the next meeting.

30 7 STATION APPROACH

Description

Demolition of the existing buildings and the redevelopment of the Site to provide 13 residential units (Class C3) within a part 3, part 4 storey building, with associated refuse storage, cycle parking and landscaping.

Decision

The Committee noted a presentation from the Planning Officer.

Following consideration, the Committee resolved (10 in favour of refusal, 1 in favour of approval and 1 abstention) that:

The Application be REFUSED on the following grounds:

- (1) The design of the development due to its scale and height would appear as a dominant and incongruous element in the street scene and would harm the character and appearance of the surrounding area, contrary to Policies DM9 and DM10 of the Development Management Policies Document (2015).
- (2) The proposal would adversely impact the neighbouring amenity at 6 Station Approach Road through overbearing impact, due to the development's excessive height, mass and bulk, constituting an overdevelopment. This fails to comply with Policy DM10 of the Development Management Policies Document (2015).
- (3) The proposal fails to provide adequate up-to-date bat surveys, failing to ensure that the proposal would not cause harm to protected species. This fails to accord with Policy DM4 of the Development Management Policies Document (2015), the NPPF (2021), Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- (4) The proposal provides inadequate space for meaningful landscaping due to its excessive built form, constituting an overdevelopment. It fails to comply with Policy DM5 of the Development Management Policies Document (2015).
- (5) In the absence of a completed Legal Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), the Applicant has failed to comply with Policy CS9 of the Core Strategy (2007) and the NPPF (2021), in relation to the provision of affordable housing.
- (6) In the absence of a completed Legal Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), the Applicant has failed to provide a car-club space. It fails to comply with Policy CS16 of the Core Strategy (2007) and the NPPF (2021).
- (7) The proposed development would not meet the parking standards as set out in Policy DM37 of the Development Management Policies Document 2015 resulting in harm on the amenities of surrounding residential occupiers' in terms of streetscene and availability of on-street parking. It would fail to comply with Policy CS16 of the Core Strategy 2007 and paragraph 102(e) of the NPPF 2019.

31 MONTHLY APPEALS REPORT

The Committee noted the appeal decisions from 9th December 2021 to 24th January 2022.

The meeting began at 7.30 pm and ended at 9.38 pm

COUNCILLOR MONICA COLEMAN (CHAIR)

Planning Committee: Planning Application
 10 March 2022 Number: 21/01708/FUL

Ward:	Town Ward;
Site:	107-111 East Street, Epsom, Surrey, KT17 1EJ
Application for:	Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 21 residential flats with associated car and cycle parking and refuse storage
Contact Officer:	Euan Cheyne

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: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R1KUEZGYLZN00>

2 Additional Representations

- 2.1 One additional representation has been received in respect of the application, supporting it on the grounds that it would be a promising development that would enhance the locale.

3 Additional Information

- 3.1 The application was deferred from the February meeting of the Planning Committee to allow Officers to obtain clarity on the ownership of the access road as well as the legal status of rights of way.
- 3.2 It has been ascertained from Office Copy Title Number SY336809 (Figure 1) and by the Head of Property & Regeneration that the existing access is owned by Epsom & Ewell Borough Council. The existing access road would be widened from 4.2 metres to 5 metres and the provision of a 1.5 to 3 metre wide footpath is proposed along the access road (Figure 2). These areas are both on land which is owned by the applicant and also ascertained from Office Copy Title Numbers SY539679, SY480192 and SY217900 (Figure 3).

Planning Committee:
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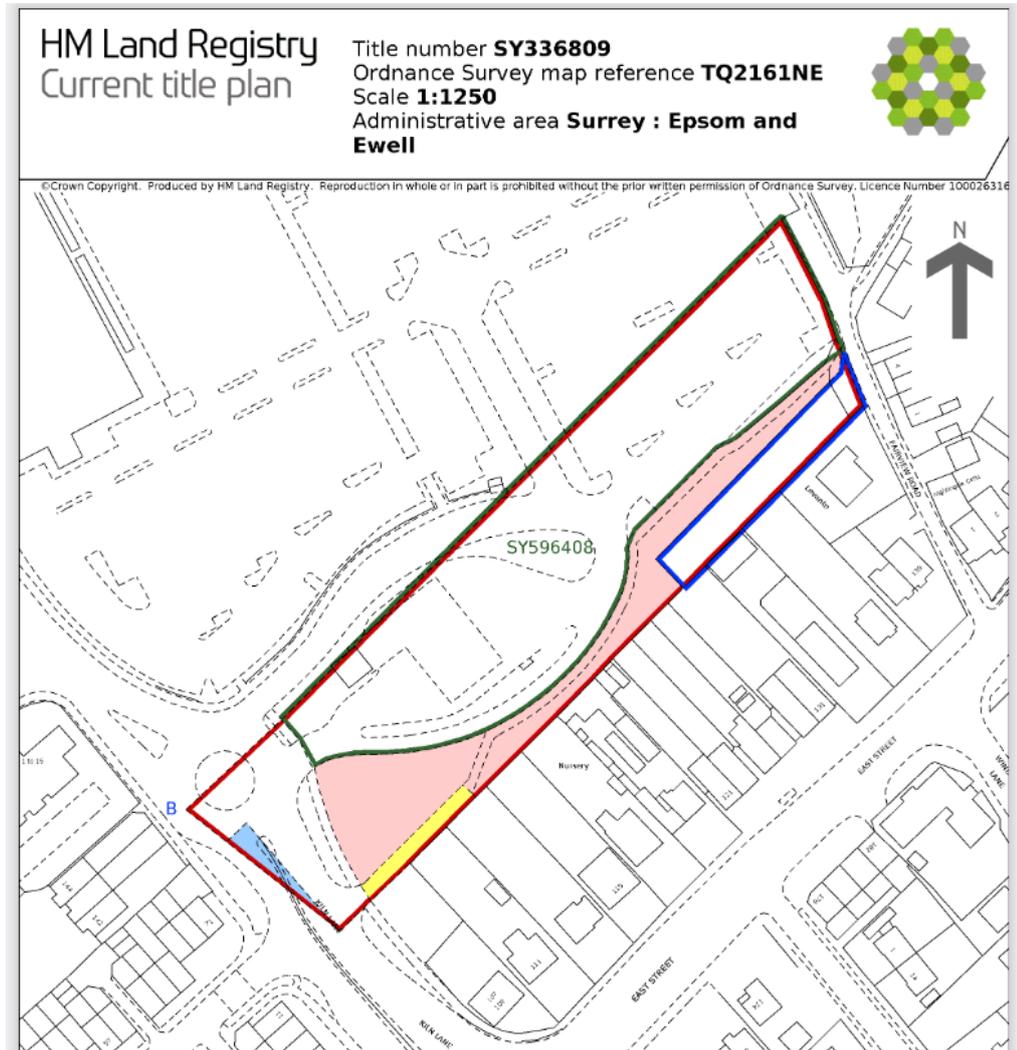


Figure 1 (above)

Planning Committee:
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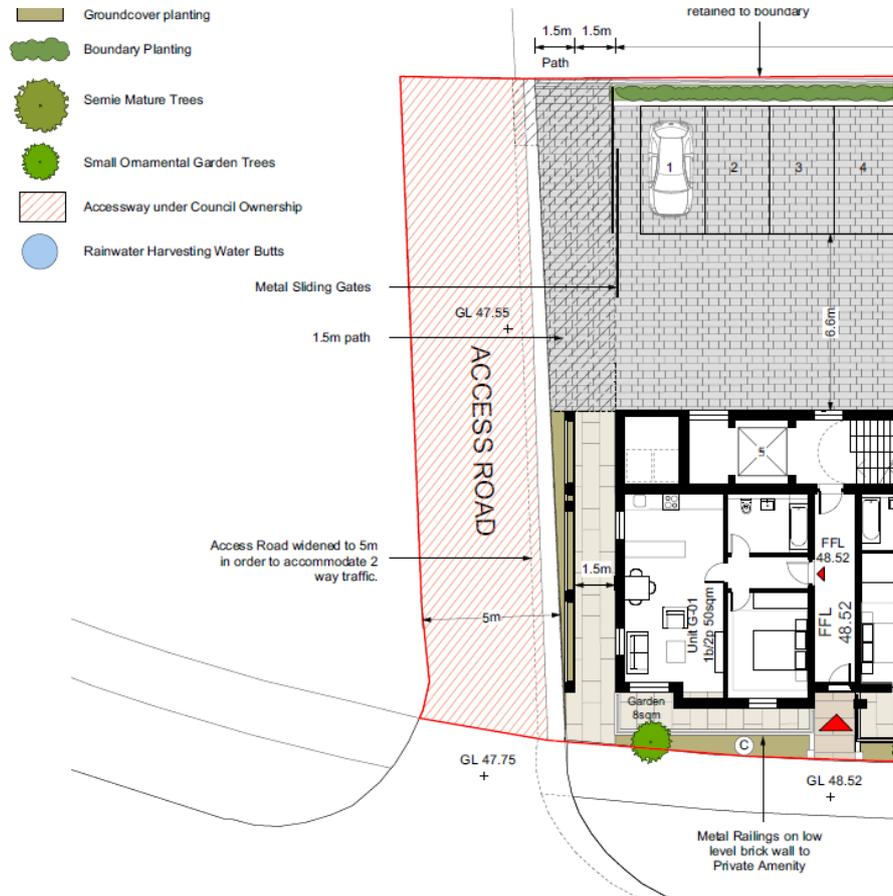


Figure 2 (above)



Figure 3 (above)

Planning Committee: Planning Application
10 March 2022 Number: 21/01708/FUL

- 3.3 Although it is not material to the determination of this application, there is a restrictive covenant over the area of land owned by the Council, which restricts access to a single dwelling. However, permission in principle was granted on 30th March 2021 at the Strategy and Resources Committee to release the restrictive covenant over the Council's access land. Accordingly, the development could be accessed if planning permission were granted, subject to the applicant agreeing terms. In relation to the area of land owned by the applicant, it is proposed to amend the Heads of Terms of the Legal Agreement under the planning application to include the provision and retention of access for the benefit of the Council over these parts of the application site. Pedestrians would therefore enjoy the same level of access as the existing area of land owned by the Council were planning permission granted.
- 3.4 As owner of the existing access and verge to the north west, the Council is responsible for its maintenance and issues involving access being blocked through parking etc. Were access restricted on the applicant's land, then the Legal Agreement, which requires access to be provided and maintained, could be enforced by the Council.
- 3.5 The Council's Solicitor has considered the ownership of the access road as well as the legal status of rights of way and confirms that, subject to the Legal Agreement, adequate access is provided and that is sufficient in terms of planning considerations. Any matter beyond that, including any restrictive covenant, is a matter for the application to be addressed outside of this planning application.

4 Conclusion

- 4.1 This additional report addresses issues relating to the deferral. The February Committee Report is appended to this report, and sets out the main planning considerations.
- 4.2 In conclusion, Paragraph 11(d)(ii) of the NPPF (2021) states that for decision-making the Council should approve planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 4.3 The Council are unable to demonstrate a 5 year supply of land for the delivery of housing. As such, the presumption in favour of sustainable development and Paragraph 11(d) of the NPPF (2021) is a material planning consideration.

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- 4.4 The provision of 21 residential units (a net gain of 18 units) each with private amenity space would provide a significant public benefit, which weighs in favour of the scheme. Paragraph 60 of the NPPF (2021) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The provision of additional housing comprises a substantial social benefit.
- 4.5 The provision of affordable housing in developments is afforded significant weight in the planning balance. The lack of policy compliant affordable housing provision, is given minor negative weight in the planning balance. The applicant has undertaken a viability appraisal which concludes that the scheme cannot viably contribute towards affordable housing, therefore minor negative weight is given as opposed to negative weight.
- 4.6 The housing mix is not fully compliant and therefore given minor negative weight.
- 4.7 The shortfall in on-site car parking spaces is given minor negative weight, by reason that the applicant has justified the shortfall and that the site is located within a sustainable location with good public transport accessibility. Increasing on-site parking provision would not optimise the residential use of the site, an important objective in view of housing need.
- 4.8 In addition, other benefits must be identified, these being economic from the construction project and CIL.
- 4.9 Taking all these matters into account, including all other material planning considerations, it is found that the benefits would significantly and demonstrably outweigh the negative impacts when assessed against the policies of the NPPF as a whole. The proposal would represent sustainable development.

5 Recommendation

5.1

PART A

Subject to a Section 106 Legal Agreement being completed and signed by 10th May 2022 to secure the following Heads of Terms:

- review mechanism which is triggered if works on-site have not reached construction of the first-floor slab within 2 years of planning permission being granted;

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- monitoring fee (drafting of S106 Legal Agreement) of £1,200
- provision and maintenance of access in accordance with the approved plans

The Committee authorise the Head of Place to grant planning permission subject to the conditions detailed below.

5.2

PART B

In the event that the Section 106 Legal Agreement referred to in Part A is not completed by 13th April 2022, the Head of Place is authorised to refuse the application for the following reason:

In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), the applicant has failed to comply with Policy CS9 (Affordable Housing) of the LDF Core Strategy (2007) in relation to the review mechanism associated with the provision of affordable housing.

6 Conditions

6.1 Please refer to the February Committee Report/Appendix 1.

Planning Committee: Planning Application
10 February 2022 Number: 21/01708/FUL

Ward:	Town Ward;
Site:	107-111 East Street, Epsom, Surrey, KT17 1EJ
Application for:	Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 21 residential flats with associated car and cycle parking and refuse storage
Contact Officer:	Euan Cheyne

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: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R1KUEZGYLZN00>

2 Summary

- 2.1 The application is classified as a major planning application and is referred to Planning Committee in accordance with Epsom and Ewell Borough Council's Scheme of Delegation.
- 2.2 The application seeks planning permission for the demolition of the existing buildings and erection of a part 3 storey, part 4 storey stepped building comprising 21 residential flats (7 x 1 bedroom, 10 x 2 bedroom and 4 x 3 bedroom) with associated car and cycle parking and refuse storage.
- 2.3 The proposal is not able to viably provide a policy compliant provision of 8.4 affordable units, based upon current costs and values. A review mechanism will be secured via a S106 legal agreement which will allow for an appraisal which reflects actual costs and values and the opportunity for an additional contribution as schemes may become more or less viable over time.
- 2.4 The proposed part 3, part 4 storey building would substantially increase the height and footprint of the existing development upon the site. The design of the proposed building is considered acceptable, subject to further details and finishes being secured by a planning condition, and would not have a harmful impact upon the character and appearance or visual amenities of the surrounding area.

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- 2.5 The proposal would provide 25 cycle spaces and 16 on-site car parking spaces; a shortfall of 7 on-site car parking spaces. The applicant has submitted a Transport Statement which states that the proposed 16 on-site car parking spaces would match the identified census (2011) level of car ownership and given the sustainable location that there is sufficient on-site car parking. Surrey County Council Highway Authority have raised no objections.
- 2.6 The site would be accessed via an access road off Kiln Lane. The access road would be widened from approximately 4.2 metres to 5 metres which is considered to be of sufficient width to accommodate two cars to pass at the site entrance. A dedicated footpath with a width of between approximately 1.5 metres and 3 metres would be provided adjacent to the access road.
- 2.7 The refuse/recycling bins would be stored in two dedicated bin stores on the lower ground level and would be moved to a holding pen at ground floor level by a private management company prior to collection from the Council on East Street.
- 2.8 There is a presumption in favour of granting sustainable development unless the application of policies provides a clear reason for refusing permission (Paragraph 11(d)(i) of the NPPF). The adverse impacts of the development are not held to significantly and demonstrably outweigh the benefits, when assessed against the NPPF, as a whole.
- 2.9 **The application is recommended for APPROVAL subject to planning conditions being imposed and a legal agreement.**

3 Site Description

- 3.1 The site is 0.124 hectares in size and comprises a single storey detached bungalow and a two storey detached property, sub-divided into self-contained flats, located on a corner plot on the north west side of East Street and the north east side of Kiln Lane.
- 3.2 The site is located within a prominent position with its frontage facing both East Street and Kiln Lane. It is also visible from Middle Lane. The site is mixed in character and appearance, however it is predominantly surrounded by two and three storey residential buildings. There are a number of flatted developments in close proximity. The site is located approximately 190 metres from the edge of the Town Centre Boundary.
- 3.3 The site is currently accessed via East Street (No. 111 East Street) and via a short cul-de-sac at the rear accessed from Kiln Lane which serves the site and the neighbouring properties. The rear access road is owned by Epsom and Ewell Borough Council.

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- 3.4 The ground level slopes down considerably from East Street to the rear of the site by approximately 2.7 metres.
- 3.5 The site does not contain a Listed Building and is not located within a Conservation Area. The site is located within EA Flood Risk Zone 1 (Low Probability of Flooding) and the rear of the site falls partly within a Critical Drainage Area. The site does not contain any Tree Preservation Orders (TPOs).

4 Proposal

- 4.1 The application proposes the demolition of the existing buildings and the erection of a part 3 storey, part 4 storey building comprising 21 residential flats (7 x 1 bedroom, 10 x 2 bedroom and 4 x 3 bedroom) with associated car and cycle parking and refuse storage.
- 4.2 The proposed building would be broken down into a number of block types as illustrated in the image (Figure 1) below:

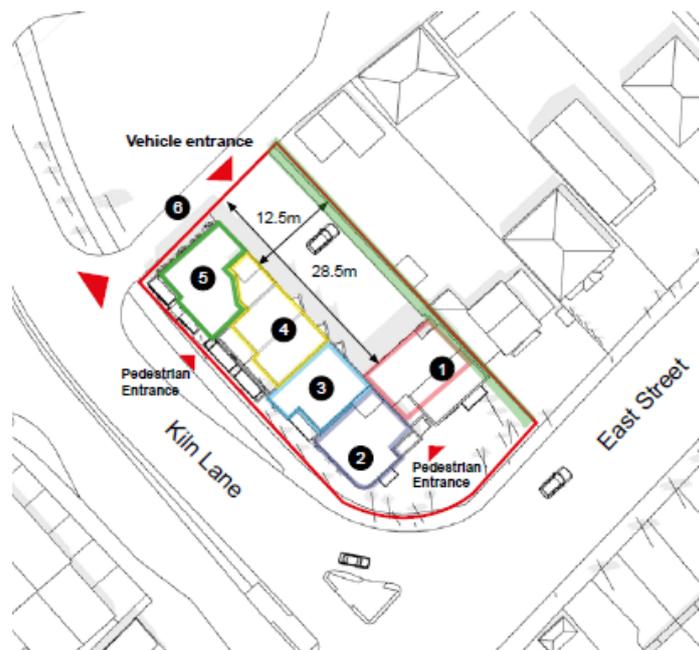


Figure 1: Diagram Site Entrances, Massing and Key Dimensions

- 4.3 The proposed building would have an L-shaped footprint and would have a width of approximately 22.5 metres (East Street frontage) and 39.2 metres (Kiln Lane Frontage). It would be designed with a flat roof form and would have a staggered height of between approximately 9.33 metres and 13.15 metres measured from the Ground FFL on East Street. The staggered height seeks to integrate with the surrounding street context which typically features two and three storey buildings.

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4.4 The external finish of the building would primarily comprise of two tones of brickwork, yellow and red.

5 Comments from Third Parties

5.1 The application was advertised by means of letters of notification to 24 neighbouring properties. 4 letters of objection (including 2 from the same address) have been received to date (15/12/2021) regarding:

- adverse visual impact
- impact on character
- design
- overbearing
- overshadowing
- loss of daylight/sunlight
- loss of outlook
- loss of privacy
- noise and disturbance
- traffic/parking implications; increase in on-street parking pressure where surrounding roads are already highly congested; the amount of parking proposed is inadequate
- highway and pedestrian safety concerns
- impact on ecology/wildlife; fail to see how there is a net gain in biodiversity
- lack of need for flats of this type in the local area, by reason that there are at least 15 flats for sale on East Street
- failed to sufficiently address any of the four previous reasons for refusal
- inaccuracies with submitted application form/documentation (existing housing typology/units, existing trees/hedges, existing access, sunlight report etc.)

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A neutral representation was received question the tone colour of the brickwork and the boring, uninspiring square block with no 'pretty or character' features.

Epsom Civic Society: Objection. Not entirely convinced that refusal reasons 1 (unsatisfactory road access) and 2 (insufficient car parking) are fully overcome. Refusal reasons 3 (bulk and mass) and 4 (absence of affordable housing) have not been addressed. Too much is being crammed into the site; a scheme of much lesser intensification is required.

Epsom Town Resident's Association: Objection. The whole proposal makes no positive contribution to the locality, and represents a significant loss of green space and biodiversity. The design is poor quality and out of character with prevailing two storey properties, adverse impact on neighbouring residential amenities, lack of affordable/social housing, unsuitable housing mix, inadequate pedestrian and cyclist access, inadequate private amenity space.

- 5.3 A number of planning site notices were displayed in close proximity to the site on 10/11/2021.

6 Consultations

- 6.1 **Epsom and Ewell Borough Council (EEBC) Design and Conservation Officer:** No objections, subject to planning conditions. The proposal is acceptable in design terms and would enhance the present townscape in materials and with a massing that is compatible with local character as required by Policy DM9. It will contribute to the local distinctiveness and local character of the street. It should also add to the overall quality of the area and establish a strong sense of place as required by Paragraph 130 of the NPPF (2021).
- 6.2 **EEBC Arboricultural Officer:** No objections.
- 6.3 **EEBC Ecology Officer:** The surveying has been completed which is good. The reports both outline a number of proposed mitigated and enhancement recommendations. A report of the actual mitigation/enhancement that is proposed and a plan of its implementation is required.
- 6.4 **EEBC Transport & Waste Services Manager:** No objections.
- 6.5 **EEBC Environmental Health Officer:** No response received.
- 6.6 **EEBC Contaminated Land Officer:** No objections, subject to planning conditions.
- 6.7 **Surrey County Council Highway Authority (CHA):** No objections, subject to planning conditions.

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The applicant has carried out a Stage 1 Road Safety Audit to assess the use of this access and proposed modifications to the access. The Road Safety Audit has picked up a number of items which will be addressed at detailed design stage when a request for S278 Agreement is submitted to the CHA for to the highway. The proposals include widening of the existing private access road to a width of 5 metre to assist turning movements.

16 car parking spaces are proposed to serve the residential units. In accordance with Epsom and Ewell's Parking Standards this is a shortfall of 7 car parking spaces. Given the adequate on street parking restrictions within the vicinity of the application site, and sustainable nature of the application site the CHA raises no objection to the application on these grounds.

The applicant has engaged in discussion with the County Highway Authority and Epsom and Ewell refuse collection team. It is proposed that waste will be collected directly from East Street, as per the existing waste collection arrangements for the existing dwellings on East Street. The CHA raises no objection to this proposal.

As parking spaces are to be allocated the CHA recommends that all car parking spaces are provided with electric vehicle charging infrastructure.

- 6.8 **Lead Local Flood Authority (SuDS):** No objections, subject to recommended planning conditions.

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7 Relevant Planning History

Planning Committee: Planning Application
10 February 2022 Number: 21/01708/FUL

Application Number	Decision Date	Application Detail	Decision
20/00797/FUL	12/08/2021	Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 23 residential flats (8 x 1 bedroom, 11 x 2 bedroom and 4 x 3 bedroom) with associated car and cycle parking and refuse storage	Refused, Appeal Lodged
20/00514/FUL (107 East Street)	28/04/2020	Erection of single storey rear extension	Permitted
20/00375/PDE (107 East Street)	06/04/2020	Erection of single storey rear extension (4.1m in depth, maximum height of 3m and eaves height of 3m)	Refused
20/00221/FUL (117 East Street)	02/04/2020	<i>Amendments to approved scheme (18/01513/FUL) to allow for a loft conversion to provide an additional flat</i>	<i>Permitted</i>
18/01150/FUL (111 East Street)	28/03/2019	Amendments to 17/00244/FUL	Permitted
18/01513/FUL (117 East Street)	22/03/2019	<i>Redevelopment and refurbishment of the site to provide 7no. self-contained flats with associated parking, amenity space, refuse store and cycle store</i>	<i>Permitted</i>
18/00714/FUL (111 East Street)	10/10/2018	Demolition of bungalow and erection of a two storey building comprising of 1 x 3 and 3 x 2 bedroom flats and associated parking	Refused
17/00244/FUL (111 East Street)	21/11/2017	Demolition of bungalow and erection of a two storey building comprising 1 x 3 and 3 x 2 bedroom flats with associated parking	Permitted

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8 Planning Policy

National Planning Policy Framework (2021)

LDF Core Strategy (2007)

Policy CS1	Creating Sustainable Communities
Policy CS5	The Built Environment
Policy CS6	Sustainability in New Development
Policy CS7	Housing Provision
Policy CS8	Housing Delivery
Policy CS9	Affordable Housing
Policy CS16	Managing Transport and Travel

LDF Development Management Policies Document (2015)

Policy DM5	Trees and Landscape
Policy DM9	Townscape Character and Local Distinctiveness
Policy DM10	Design Requirements for New Developments
Policy DM11	Housing Density
Policy DM12	Housing Standards
Policy DM13	Building Heights
Policy DM17	Contaminated Land
Policy DM19	Development and Flood Risk
Policy DM21	Meeting Local Housing Needs
Policy DM22	Housing Mix
Policy DM35	Transport and New Development
Policy DM36	Sustainable Transport for New Development
Policy DM37	Parking Standards

Technical Housing Standards – Nationally Described Space Standards (2015)

Parking Standards for Residential Development SPD (2015)

Surrey County Council Vehicular and Cycle Parking Guidance (2018)

Surrey Design: A Strategic Guide for Quality Built Environments: Technical Appendix (2002)

Revised Sustainable Design SPD (2016)

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9 Planning Considerations

9.1 The main planning considerations material to the determination of this application are:

- Principle of Development
- Impact upon Character and Appearance of the Area
- Impact upon Neighbouring Residential Amenities
- Affordable Housing
- Quality of Accommodation
- Housing Mix
- Highways, Parking and Cycle Parking
- Refuse and Recycling Facilities
- Landscaping
- Biodiversity and Ecology
- Sustainability
- Flood Risk and Surface Water Drainage
- Land Contamination
- Community Infrastructure Levy (CIL)
- Legal Agreements

Principle of Development

Presumption in Favour of Sustainable Development

9.2 The National Planning Policy Framework (NPPF) was updated in July 2021 and sets out the Government's planning policies for England and how they should be applied. It sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.

9.3 The site is located within a built up area and does not affect any assets of particular importance such as SSSI, AONB, European or National Ecological Designations, Green Belt or any other given additional weight by the NPPF (2019). When considering the principle of development, the presumption in favour of sustainable development is fundamental in this case.

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- 9.4 In accordance with Paragraph 12 of the NPPF (2021), development proposals that accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted.
- 9.5 Paragraph 11d of the NPPF (2021) is engaged via Footnote 7 in circumstances, for applications involving the provision of housing, where Local Planning Authorities cannot demonstrate a five year supply of deliverable housing sites. The practical application and consequence of this is that unless the site is located in an area or affects an asset of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impact would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

Housing Need

- 9.6 Paragraph 60 of the NPPF (2021) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 9.7 Paragraph 69 of the NPPF (2021) states [inter alia] that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
- 9.8 Policy CS7 (Housing Provision) of the LDF Core Strategy (2007) states that the Council will seek to ensure sufficient housing is provided to meet the Borough's housing requirement. The Council's annual housing target has increased significantly since the adoption of the Core Strategy (2007) and Epsom and Ewell Borough Council currently has an annual housing target of 695 new residential dwellings per year under the Housing Delivery Test.
- 9.9 Meeting any increase in the annual housing target will be challenging, by reason that the Borough is mostly comprised of existing built up areas, strategic open spaces or Green Belt, therefore the supply of available development sites is now extremely limited. As such, it is important that available sites are optimised for housing delivery.
- 9.10 The surrounding area is predominantly residential in character and appearance, therefore current planning policy would not preclude such types of developments. As such, given the significant housing need within the Borough, it is considered that the redevelopment of this site at a higher density creating additional residential units within a sustainable location is acceptable in principle, subject to the below other material planning considerations.

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Impact upon Character and Appearance of the Area

- 9.11 The National Planning Policy Framework (NPPF) (2019) attaches great importance to the design of the built environment. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 states [inter alia] that developments should function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history. Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- 9.12 Paragraph 3.7.5 of the LDF Core Strategy (2007) sets out that new development should enhance and complement local character, and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm and which positively contributes to the townscape.
- 9.13 Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015) states that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:
- Prevailing development typology, including house type, sizes, and occupancy;
 - Prevailing density of the surrounding area;
 - Scale, layout, height, form, massing;
 - Plot width and format which includes spaces between buildings;
 - Building line build up, set back, and front boundary; and

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- Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.
- 9.14 Policy DM11 (Housing Density) of the LDF Development Management Policies Document (2015) states that in principle, the Council will support proposals for new housing that make the most efficient use of development sites located within the Borough's existing urban area. The density of new housing development will in most cases not exceed 40 dwellings per hectare, however exceptions will be considered if it can be demonstrated that the site enjoys good access to services, facilities and amenities via existing public transport, walking and cycling networks; and the surrounding townscape has sufficient capacity to accommodate developments of higher density.
- 9.15 It is acknowledged that the proposed 21 dwellings would substantially exceed the 40 dwellings per hectare (approximately 156dpha (21/0.135ha proposed)), however this is given less weight in the planning assessment as there is a need to optimise available sites and it is inconsistent with the objectives of the NPPF (2021).
- 9.16 Policy DM13 (Building Heights) of the LDF Development Management Policies Document (2015) states [inter alia] that buildings higher than 12 metres will be inappropriate in all areas of the Borough except the identified areas within the Epsom Town Centre Boundary where buildings up to a maximum height of 16 metres will be allowed in certain locations. It is acknowledged that although the site falls outside the Town Centre Boundary it is nevertheless located approximately 190 metres from the edge of the Town Centre Boundary and therefore the above policy is applicable.
- 9.17 In May 2018, the Licensing and Planning Policy Committee took a decision to set aside Policy DM11 (Housing Density) and Policy DM13 (Building Heights). This was on the basis of the aforementioned policies restricting opportunities for growth in the Borough. It should be noted that these policies still remain part of the development plan, however they are afforded little weight in the presumption of sustainable development.
- 9.18 The site is located within a prominent position with its frontage facing both East Street and Kiln Lane. It would also be visible from Middle Lane. The immediate area consists of two and three storey detached, semi-detached and terraced properties (some sub-divided into self-contained flats) of varying architectural style, however there are a number of flatted developments in close proximity.

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9.19 The existing detached bungalow and two storey detached property would be demolished and along with the wider site curtilage be replaced with a two – four storey stepped building of a contemporary design. The proposed building would be broken down into a number of block types. It would have a staggered height of between approximately 9.33 metres and 13.15 metres measured from the Ground FFL on East Street. It would be designed with a flat roof form with a varied roofline of setbacks and integral balconies/terraces (upper floors) and private terraces (ground floor). The design of the proposed building is illustrated in the images (see Key Views 1 and 2) below:



Key View 1:
Street
junction with



East
looking at
Kiln Lane

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Key View 2: East Street looking north at junction to Kiln Lane

- 9.20 It is evident that the proposal would be of a much higher density in comparison to the existing built form. The proposed building would have a meaningful visual gap between the two/three storey block and the corner block, a curved corner feature and a staggered elevation building line with integral balconies. The stepped design, incorporating the fall in street level (see Figure 2 below) along with the pushing and pulling of the façade with deep recessed balconies are considered to help break down the bulk and mass of the building.



Figure 2: Kiln Lane

- 9.21 It is acknowledged that the proposed maximum height of approximately 13.15 metres would exceed the 12 metre height considered appropriate in Policy DM13 (Building Heights), however again this is given less weight in the planning assessment as there is a need to optimise available sites and it is inconsistent with the objectives of the NPPF (2021). Furthermore, each application is considered on a case by case basis and on its own individual merits.

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- 9.22 In terms of local context, there is a three storey apartment block (Acer House) on East Street on the opposite side of Kiln Lane and from the application site and diagonally from the application site and on the opposite side of East Street is a newly constructed four storey apartment block (Epsom Reach/former Kings Arms Public House) extending to an approximate height of 13.4 metres. It is considered that the proposed density and height of the proposal would relate to the higher densities in East Street, particularly leading back to the Town Centre.
- 9.23 The choice of materials are particularly important in terms of designing a high quality development and to ensure that the design is appropriate within the surrounding local context helping to develop a modern vernacular for the edge of the town centre. The external finish of the building would primarily comprise of two tones of brickwork, yellow and red, which would be reflective of the surrounding area where a variety of different brickwork tones are used. It would also help break up the massing of the proposed building and avoid the long elevation becoming monotonous. The proposed materials are considered acceptable in principle, however to ensure a high quality appearance upon completion of the development further information on all proposed materials and finishes (including boundary treatment) will be secured via a planning condition.
- 9.24 It is considered that the design, scale and massing of the proposal, whilst clearly visible within the streetscene, would make a positive contribution to the character and appearance of the surrounding area, and would comply with the NPPF (2021), Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

Impact upon Neighbouring Residential Amenity

- 9.25 Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015) seeks to safeguard residential amenities in terms of privacy, outlook, daylight/sunlight and, noise and disturbance.
- 9.26 The proposed building would be stepped in height away from the shared boundary with No. 113 East Street. Block Type 1 (part two, part three storey in height) would be located approximately 0.8 metres from the shared boundary with No. 113 East Street. Block Type 2, 3 and 4 (four storey in height) would be located approximately 12.6 metres from the shared boundary with No. 113 East Street.

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- 9.27 The proposed boundary treatment to the rear with No. 113 East Street would comprise of a low level brick wall to the inside face of the existing approximate 1.9 metre neighbouring fence and an approximate 2.5 metre (measured from the car park level) high boundary hedgerow planting.

Daylight and Sunlight

- 9.28 The application has submitted a Daylight and Sunlight Report [prepared by Waterslade].
- 9.29 The Building Research Establishment (BRE) Report 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' by Paul Littlefair is the normal criteria adopted when assessing the sunlight and daylight impact of new development on existing buildings.
- 9.30 It is usual to only consider the main habitable spaces (i.e. living rooms, bedrooms and kitchens) within residential properties. As such, the following properties have been considered (applicant's assessment in italics):

- No. 113 East Street

The assumed habitable room assessed within this property experiences a small proportional VSC reduction of 11% to a rear window, which is well within the 20% allowance specified in the BRE guidelines. This combined with the excellent retained VSC of 35%, means that the impact comfortably complies with the BRE guidelines.

- No. 103B East Street

The assumed habitable room assessed within this property experiences a negligible reduction in daylight and sunlight as a result of the proposed development and will fully comply with the BRE guidelines.

- No's. 1, 3, 5, 7, 9 and 11 Kiln Lane

The assumed habitable rooms assessed within these properties experience small proportional VSC reductions of between 7% and 10%, which is well within the 20% allowance specified in the BRE guidelines. This combined with the excellent retained VSCs of around 33%, means that the impact comfortably complies with the BRE guidelines.

- Chossy House, No. 168 East Street

The assumed habitable rooms assessed within this property experience negligible reductions in daylight and sunlight as a result of the proposed development and will fully comply with the BRE guidelines.

- No's 1 and 2 Ede Court

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The assumed habitable rooms assessed within these properties experience negligible reductions in daylight and sunlight as a result of the proposed development and will fully comply with the BRE guidelines.

Overshadowing

9.31 The BRE guidance suggest that for an amenity area, e.g. garden, to appear sunlit throughout the year, at least 50% of the garden or amenity area should receive two hours of sunlight on 21st March (21st March is the equinox month and is the set day for testing overshadowing in accordance with the BRE criteria).

- No. 113 East Street

9.32 *Drawing W1242_SHA_01 shows the percentage of the neighbouring garden that receives at least two hours of direct sunlight on March 21st before and after development. The results show that the garden of 113 East Street achieves 74% after development, which comfortably exceeds the BRE recommended target of 50%. Therefore, the overshadowing impact of the proposed development fully complies with the BRE guidelines.*

Privacy/Overlooking

9.33 The proposed building has been designed so that the private amenity space (balconies/terraces) has been sited so they face East Street and Kiln Lane. It is stated that most habitable room windows and balconies would be located on the north west, south east and south west elevations, however some bedroom windows would be located on the north east elevation facing No. 113 East Street. These windows would be of an oriel design angled away from No. 113 East Street.

9.34 It is considered that consideration has been given to minimise any undue overlooking and loss of privacy and there would be no direct overlooking into neighbouring habitable room windows, therefore any impact is not considered to be significant enough to warrant grounds for refusal.

9.35 The proposed separation distance between the proposed balconies and the front windows on No's. 1, 3, 5, 7, 9 and 11 Kiln Lane would be in excess of 30 metres. It is considered, by reason of this separation distance, that there would not be any undue overlooking or significant loss of privacy to the properties located on Kiln Lane.

Outlook

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- 9.36 The proposed side flank elevation wall of the four storey block would be located approximately 12.5 metres from the shared boundary with No. 113 East Street. It is considered that there would be some visual impact and loss of outlook, however by reason of the set in distance, any impact is not considered to be significant enough to warrant grounds for refusal.

Noise and Disturbance

- 9.37 It is acknowledged that the proposed building would result in an increased number of comings and goings in comparison to the existing arrangements, however the level of noise would not be unusual within a built up environment adjacent to an 'A' classified road.
- 9.38 The submitted Daylight and Sunlight Report concludes that *the level of daylight and sunlight impact to all assumed habitable rooms assessed within the neighbouring properties, and the overshadowing impact to the rear garden of [No.] 113 East Street, is very small and fully compliant with the BRE guidelines.*
- 9.39 It is concluded that Officers accept the findings of the Daylight and Sunlight Report and Shadow Path Analysis submitted by the applicant. The proposal is not considered to diminish the living conditions of any neighbouring occupiers to an extent that would be material or warrant grounds for refusal. As such, it is considered that the proposal would comply with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

Affordable Housing

- 9.40 Paragraph 63 of the NPPF (2021) states that where a need for housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - b) the agreed approach contributes to the objectives of creating mixed and balanced communities
- 9.41 Paragraph 65 of the NPPF (2021) states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

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- 9.42 Policy CS9 (Affordable Housing) of the LDF Core Strategy (2007) states that the Council has a target that overall, 35% of new dwelling should be affordable. Residential development of 15 or more dwellings gross (or on sites of 0.5ha or above) should include at least 40% of dwellings as affordable.
- 9.43 In this regard, to be fully compliant, the proposal would be required to provide 8.4 affordable units.
- 9.44 Paragraph 3.12.11 of the LDF Core Strategy (2007) states that where there are specific and overriding site constraints, or where development-specific issues inhibit the provision of affordable housing, off site provision or financial contributions may be acceptable.
- 9.45 The applicant, DWD, have undertaken a viability appraisal, submitted in support of the planning application. This concluded that the proposed scheme would result in a deficit of circa. £1,320,000 and therefore the scheme cannot viably deliver any on-site affordable housing or provide an off-site affordable in lieu payment. The applicant's viability appraisal has been independently reviewed by a viability assessor, BPS, on behalf of the Council.
- 9.46 BPS have concluded that the scheme shows a deficit of circa. £165,132, which is a significant improvement in viability against DWD's position, but still a 'non-viable' position that suggests the scheme cannot viably contribute towards affordable housing based upon current costs and values. The recent increases in construction costs are a key reason for this deficit compared to the conclusions made in BPS's reporting of the previously refused scheme (ref. 20/00797/FUL).
- 9.47 BPS have recommended that a review mechanism is included in the S106 agreement, to be worded as follows:
- review mechanism which is triggered if works on-site have not reached construction of the first-floor slab within 2 years of planning permission being granted
- 9.48 A review mechanism can offer several advantages e.g. an appraisal which reflects actual costs and values and the opportunity for an additional contribution as schemes may become more or less viable over time.
- 9.49 The net gain provision of 18 residential units, although without a policy compliant level of affordable housing is a benefit, which weighs in favour of the proposal in the planning balance. The lack of a policy compliant level of affordable housing is given minor negative weight.

Quality of Accommodation

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- 9.50 Policy DM12 (Housing Standards) of the LDF Development Management Policies Document (2015) states that all new housing developments, including conversions, are required to comply with external and internal space standards.
- 9.51 The Nationally Described Space Standards (2015) sets out internal space standards for new dwellings at a defined level of occupancy. It further states that in order to provide one bedspace, a single bedroom has a floor area of at least 7.5sqm and in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5sqm.
- 9.52 Paragraph 3.36 of the LDF Development Management Policies Document (2015) states that to provide adequate private amenity space for development of flats, a minimum of 5sqm of private amenity space for 1-2 person units should be provided and an extra 1sqm should be provided for each additional occupant e.g. a 4 person unit would be required to provide a minimum of 7sqm of private amenity space.
- 9.53 The application proposes 7 x 1 bedroom flats, 10 x 2 bedroom flats and 4 x 3 bedroom flats.

Flat	Number of Bedrooms (b) / Number of Bed Spaces (p)	Gross Internal Area (GIA)	Private Amenity Space
G-01	1b/2p	50sqm	8sqm
G-02	1b/2p	55sqm	17sqm
G-03	1b/2p	50sqm	11sqm
1-02	1b/2p	50sqm	6sqm
1-06	1b/2p	50sqm	5sqm
1-07	1b/2p	51sqm	5sqm
2-02	1b/2p	50sqm	6sqm
1-01	2b/3p	62sqm	6sqm
1-03	2b/3p	61sqm	6sqm
1-04	2b/3p	61sqm	6sqm
2-01	2b/3p	62sqm	6sqm
2-03	2b/3p	61sqm	6sqm
2-04	2b/3p	61sqm	6sqm
2-06	2b/3p	62sqm	40sqm
3-01	2b/3p	73sqm	14sqm
3-02	2b/3p	68sqm	6sqm
3-03	2b/3p	61sqm	11sqm
G-04	3b/4p	78sqm	35sqm
G-05	3b/4p	86sqm	30sqm
1-05	3b/4p	74sqm	8sqm

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2-05	3b/4p	74sqm	8sqm
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- 9.54 The proposed flats would all either meet or exceed the minimum internal and external space standards set out in the Nationally Described Space Standards (2015), therefore providing adequate living and private amenity arrangements. The ground floor flats would be provided with a small garden space and the upper floor flats would be provided with either a balcony or terrace.
- 9.55 As such, it is considered that the proposal would comply with Policy DM12 (Housing Standards) of the LDF Development Management Policies Document (2015) and the Technical Housing Standards – Nationally Described Space Standards (2015).

Housing Mix

- 9.56 Policy DM22 (Housing Mix) of the LDF Development Management Policies Document (2015) states that the Council require all residential development proposals for four or more units be comprised of a minimum of 25% 3+ bedroom units, unless it can be demonstrated that the mix would be inappropriate for the location or endanger the viability of the proposal.
- 9.57 Chapter 3 (Housing Need Assessment) of the Council's Strategic Housing Market Assessment Update (2019) recommends that the breakdown of dwellings by size should be 10% for 1 bedroom units, 50% for 2 bedroom units, 30% for 3 bedroom units and 10% for 4 bedroom units.
- 9.58 The proposed housing mix would be 7 (33%) x 1 bedroom units, 10 (48%) x 2 bedroom units and 4 (19%) x 3 bedroom units. It is acknowledged that the housing mix for 3+ bedroom units would be slightly short of that set out above, however by reason that the proposal is located within a sustainable town centre location and that the proposal is flatted development, it is considered that the housing mix is appropriate within this location. Furthermore, the mix of units includes a majority of 2 bedroom units suitable for small families.
- 9.59 The housing mix not being fully policy compliant is given negative minor weight.

Highways, Parking and Cycle Parking

- 9.60 Paragraph 111 of the NPPF (2021) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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- 9.61 Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) encourages development proposals that foster an improved and integrated transport network and facilitate a shift of emphasis to non-car modes as a means of access to services and facilities. Development proposals should (inter alia) provide safe, convenient and attractive accesses for all, including the elderly, disabled, and others with restricted mobility. Development proposals should be appropriate for the highways network in terms of the volume and nature of traffic generated, provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Furthermore, development proposals must ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, not materially increase other traffic problems.
- 9.62 Policy DM37 (Parking Standards) of the LDF Development Management Policies Document (2015) seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions. It further states that the Council will consider exceptions to this approach if an applicant can robustly demonstrate that the level of on-site parking associated with the proposal would have no harmful impact on the surrounding area in terms of streetscene or availability of on-street parking.
- 9.63 Table 1 of the Council's Parking Standards for Residential Development SPD (2015) states that 1 & 2 bedroom flats require a minimum of 1 off-street car parking space and 3+ bedroom flats require a minimum of 1.5 car parking spaces. As such, in accordance with Table 1 the proposal should provide a minimum of 23 car parking spaces.
- 9.64 The proposal would be provided with 16 on-site car parking spaces. As such, in accordance with Table 1 there is a shortfall of 7 on-site car parking spaces. The applicant has submitted a Transport Statement (Job Number 2688, Rev F). It concludes, by way of robustly justifying the shortfall, that the proposed 16 on-site car parking spaces proposed matches the identified census (2011) level of car ownership and given the sustainable location that there is sufficient parking proposed on-site and as a result overspill parking will not be required. It is considered that future occupiers would not necessarily be reliant on the use of a car for typical daily journey purposes and would have a range of alternative modes of transport, including train, bus, cycling and walking. Furthermore, it is considered that the proposal would not significantly exacerbate or worsen any existing parking problems in the area.

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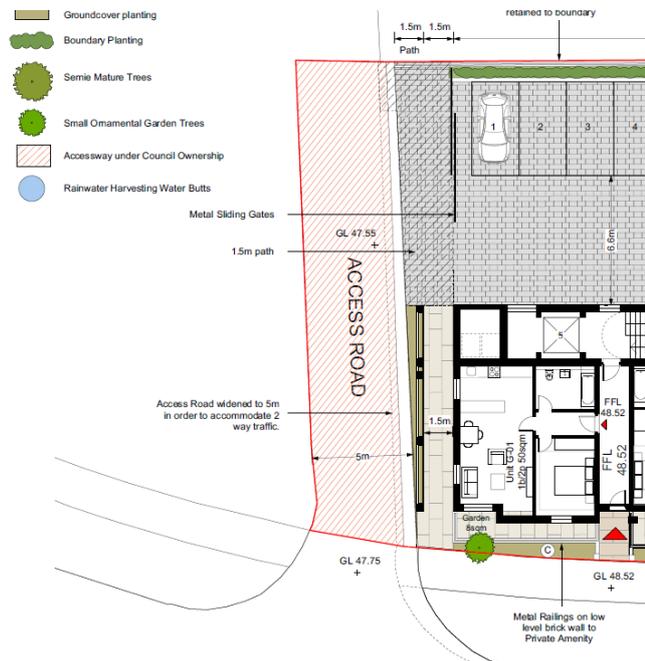
- 9.65 It is argued by the applicant that the proposed 16 on-site car parking spaces would ensure that the private car is not prioritised over more sustainable modes of travel, in accordance with the objectives of Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007). The applicant has further stated that it is anticipated that the car parking will be allocated, however it would be offered at a yearly charge with a yearly review, in order to further limit demand to only apartments that require a parking space.
- 9.66 Surrey Design: A Strategic Guide for Quality Built Environments: Technical Appendix (2002) states that the minimum carriageway widths for 0-25 dwellings is 4.1 metres, and for 26-50 dwellings is 4.8 metres.
- 9.67 It is proposed to use the existing access off Kiln Lane for vehicular access into the site. The existing access road would be widened from approximately 4.2 metres to 5 metres, which is considered to be of sufficient width to accommodate two cars to pass at the site entrance as demonstrated by the swept path analysis (Dwg No. SK13 Rev A), and would comply with the minimum carriageway widths set out above.



Extract of Dwg No. SK13 Rev A

- 9.68 A 1.5 metre to 3 metre wide footpath is proposed along the access road (partly located under the proposed apartment building) and would provide a dedicated pedestrian route towards Sainsbury's (see Dwg No. (GA)02-PL2 Rev A). The entrance to the on-site car parking spaces would comprise of metal sliding gates.

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Extract of Dwg No. (GA)02-PL2 Rev A showing footpath arrangements

- 9.69 Surrey County Council Vehicular and Cycle Parking Guidance (2018) requires 1 cycle space per 1 & 2 bedroom unit and 2 cycle spaces per 3 + bedroom unit. As such, in accordance with this guidance the proposal should provide a minimum of 25 cycle parking spaces.
- 9.70 The proposal would be provided with storage for 25 cycle spaces. The cycle storage has been designed so that it would be an integral part of the building and would be accessible and secure. This is considered acceptable.
- 9.71 Surrey County Council Highway Authority have raised no objections to the proposal, however recommend that all car parking spaces are provided with electric vehicle charging infrastructure. This aspect will be secured via a planning condition.
- 9.72 As such, it is considered that the proposal would comply with the NPPF, Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).
- 9.73 The shortfall in car parking is given minor negative weight.

Refuse and Recycling Facilities

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- 9.74 Policy CS6 (Sustainability in New Developments) of the LDF Core Strategy (2007) sets out [inter alia] that proposals for development should result in a sustainable environment and to conserve natural resources, waste should be minimised and recycling encouraged. Development should incorporate waste management processes.
- 9.75 Annex 2 of the Council's Revised Sustainable Design SPD (2016) sets out the refuse and recycling requirements for flatted development. It states [inter alia] that storage areas for communal wheeled bins and recycling needs to allow sufficient room for both refuse and recycling containers to be stored and manoeuvred and be within 6 metres of the public highway. It further states that if more than four 240 litre bins are to be emptied, then the collection vehicle should be able to enter the development to avoid the risk of obstructing traffic.
- 9.76 The proposed refuse and recycling stores (one for each core) have been designed so that they are integral to the building. These would be accessed from the car park. It is proposed that approximately 509 litres/flat has been allocated for refuse and recycling materials as follows:
- 3 x 1100L refuse bins
 - 5 x 1100L mixed recycling bins
 - 1 x 1100L and 1 x 240L glass recycling bins
 - 3 x 180L food waste recycling bins
- 9.77 It should be noted that the above requirement has been calculated in accordance with Annex 2 of the Council's Sustainable Design SPD (2016).
- 9.78 Dwg No. (GA)03-PL2 A demonstrates Bin Store A and Bin Store B. The bin stores would be located at lower ground level and within 30 metre horizontal travel distance of all flats. It is further proposed that a private management company will move the bins via a dedicated bin lift to a holding pen at ground floor level, ready for collection from East Street (Dwg No. (GA)02 C).
- 9.79 The Council's Transport and Waste Services Manager has stated that this arrangement would necessitate the Council's collection vehicles to park roughly outside No. 113 East Street during collections which is considered suitable in terms of general traffic flow, distance from the junction with Kiln Lane, and the locations of the existing dropped kerb.
- 9.80 The proposed 509 litres/flat would exceed the guidance of 495 litres/flat set out in the Council's Sustainable Design SPD (2016).

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- 9.81 The Council's Transport and Waste Services Manager has raised no objections. Surrey County Council Highway Authority (CHA) have also raised no objections to the proposal.
- 9.82 A refuse, deliveries and servicing waste management plan will be secured via a planning condition, to be implemented and for each and every subsequent occupation of the development, and an informative added stating that the private waste management company is expected to move the bins to the holding pen at ground floor level and that the Council will not be responsible for missed collections in the event waste management processes is not in place.
- 9.83 As such, it is considered that the proposal would comply with Policy CS6 (Sustainability in New Development) of the LDF Core Strategy (2007) and Annex 2 of the Council's Revised Sustainable Design SPD (2016).

Landscaping

- 9.84 Policy DM5 (Trees and Landscape) of the LDF Development Management Policies Document (2015) sets out that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by [inter alia]:
- continuing to maintain trees in streets and public open spaces and selectively removing, where absolutely necessary, and replacing and replanting trees; and
 - requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature trees and other planting.
- 9.85 It is noted that there has been a recent loss of trees within the site curtilage resulting in the site having a bare and exposed appearance.
- 9.86 The proposal is complemented with some soft landscaping and tree planting proposed along the street frontage, with larger specimens on East Street. A landscape buffer has been proposed along the shared boundary with No. 113 East Street.
- 9.87 It is considered that further details of hard and soft landscaping should be secured via a planning condition. As such, it is considered that the proposal would comply with Policy DM5 (Trees and Landscape) of the LDF Development Management Policies Document (2015).

Biodiversity and Ecology

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- 9.88 Policy CS3 (Biodiversity and Nature Conservation Areas) of the LDF Core Strategy (2007) sets out that development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 9.89 Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015) seeks to ensure that new development takes every opportunity to enhance the nature conservation potential of a site and secure a net benefit to biodiversity. It sets out that development affecting any site or building that supports species protected by Law including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.
- 9.90 The applicant has submitted an Ecological Appraisal Report [prepared by Wychwood Environmental Ltd]. The Council's Ecology Officer has advised that the surveys all seem good. It is acknowledged that the development does result in the loss of habitat including dense scrub and amenity grassland. The Appraisal Report recommends a number of mitigation and enhancement proposals, including a green roof, 'bee bricks', bird boxes and native species planting. It is considered that further details should be secured via a planning condition to enhance the biodiversity of the site in accordance with Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015).

Sustainability

- 9.91 Policy CS6 (Sustainability in New Developments) of the LDF Core Strategy (2007) states [inter alia] that development should result in a sustainable environment and ensure that new development minimises the use of energy in the scheme, minimises the emission of pollutants into the wider environment, minimises the energy requirements of construction and incorporates waste management processes.
- 9.92 The applicant has submitted an Energy and Sustainability Report [prepared by Envision]. The report demonstrates how the development will incorporate a number of sustainability and energy efficiency measures. The proposal would include a 40 square metre photovoltaic (PV) array mounted to the roof of the proposed building.
- 9.93 As such, it is considered that the proposal would be able to secure a sustainable development outcome and would comply with the NPPF (2019) and Policy CS6 of the LDF Core Strategy (2007).

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Flood Risk and Surface Water Drainage

- 9.94 Paragraph 167 of the NPPF (2021) states that when determining any planning applications, LPAs should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.
- 9.95 Paragraph 169 of the NPPF (2021) sets out that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
 - b) have appropriate proposed minimum operational standards;
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
 - d) where possible, provide multifunctional benefits.
- 9.96 Policy CS6 (Sustainability in New Developments) of the LDF Core Strategy (2007) states that proposals for development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change. In order to conserve natural resources, minimise waste and encourage recycling, the Council will ensure that new development [inter alia] avoids increasing the risk of, or from flooding.
- 9.97 Policy DM19 (Development and Flood Risk) of the LDF Development Management Policies Document (2015) sets out that development on sites of 1ha or greater in Zone 1 will not be supported unless [inter alia]:
- ii) it can be demonstrated through a site Flood Risk Assessment (FRA) that the proposal would, where practicable, reduce risk both to and from the development or at least be risk neutral; and,
 - iii) where risks are identified through an FRA, flood resilient and resistant design and appropriate mitigation and adaptation can be implemented so that the level of risk is reduced to acceptable levels.
- 9.98 Policy DM19 further states that the Council will expect development to reduce the volume and rate of surface water run-off through the incorporation of appropriately designed Sustainable Drainage Systems (SuDs) at a level appropriate to the scale and type of development.
- 9.99 The site is located within Flood Risk Zone 1 (Low Probability of Flooding) and the rear of the site falls partly within a Critical Drainage Area. The site is 0.124 hectares in size.

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9.100 The applicant has submitted a Flood Risk Assessment and Drainage Strategy [prepared by Waterman Infrastructure & Environment Limited].

9.101 The Lead Local Flood Authority (Surrey County Council) have reviewed the submitted surface water drainage strategy for the proposed development and have raised no objections, subject to planning conditions. As such, it is considered that the proposal would comply with the NPPF (2019), Policy CS6 (Sustainability in New Developments) of the LDF Core Strategy (2007) and Policy DM19 (Development and Flood Risk) of the LDF Development Management Policies Document (2015).

Land Contamination

9.102 Paragraph 186 of the NPPF (2021) states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

9.103 Policy DM17 (Contaminated Land) of the LDF Development Management Policies Document (2015) states [inter alia] that where it is considered that land may be affected by contamination, planning permission will only be granted if it is demonstrated that the developed site will be suitable for the proposed use without the risk from contaminants to people, buildings, services or the environment including the apparatus of statutory undertakers.

9.104 The applicant has submitted a Preliminary Investigation Report (Ref. 18318/PIR_R26/V1.0). The Council's Contaminated Land Officer has reviewed this and agrees that an intrusive investigation is required. This aspect will be secured via a planning condition.

Community Infrastructure Levy (CIL)

9.105 The proposal will be CIL liable.

Legal Agreements

9.106 The following site specific and/or financial and infrastructure contributions are required to mitigate the adverse impact of the development:

- review mechanism which is triggered if works on-site have not reached construction of the first-floor slab within 2 years of planning permission being granted
- monitoring fee (drafting of Section 106 agreement) of £1,200

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10 Conclusion

- 10.1 Paragraph 11(d)(ii) of the NPPF (2021) states that for decision-making the Council should approve planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 10.2 The Council are unable to demonstrate a 5 year supply of land for the delivery of housing. As such, the presumption in favour of sustainable development and Paragraph 11(d) of the NPPF (2021) is a material planning consideration.
- 10.3 The provision of 21 residential units (a net gain of 18 units) each with private amenity space would provide a significant public benefit, which weighs in favour of the scheme. Paragraph 60 of the NPPF (2021) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is development without unnecessary delay. The provision of additional housing comprises a substantial social benefit.
- 10.4 The provision of affordable housing in developments is afforded significant weight in the planning balance. The lack of policy compliant affordable housing provision, is given minor negative weight in the planning balance. The applicant has undertaken a viability appraisal which conclude that the scheme cannot viably contribute towards affordable housing, therefore minor negative weight is given as opposed to negative weight.
- 10.5 The housing is mix is not fully compliant and therefore given minor negative weight.
- 10.6 The shortfall in on-site car parking spaces is given minor negative weight, by reason that the applicant has justified the shortfall and that the site is located within a sustainable location with good public transport accessibility. Increasing on-site parking provision would not optimise the residential use of the site, an important objective in view of housing need.
- 10.7 In addition, other benefits must be identified, these being economic from the construction project and CIL.
- 10.8 Taking all these matters into account, including all other material planning considerations, it is found that the benefits would significantly and demonstrably outweigh the negative impacts when assessed against the policies of the NPPF as a whole. The proposal would represent sustainable development.

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11 Recommendation

PART A

11.1 Subject to a Section 106 Legal Agreement being completed and signed by 13th April 2022 to secure the following Heads of Terms:

- review mechanism which is triggered if works on-site have not reached construction of the first-floor slab within 2 years of planning permission being granted;
- monitoring fee (drafting of S106 Legal Agreement) of £1,200

The Committee authorise the Head of Place to grant planning permission subject to the conditions detailed below.

PART B

11.2 In the event that the Section 106 Legal Agreement referred to in Part A is not completed by 13th April 2022, the Head of Place is authorised to refuse the application for the following reason:

In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), the applicant has failed to comply with Policy CS9 (Affordable Housing) of the LDF Core Strategy (2007) in relation to the review mechanism associated with the provision of affordable housing.

CONDITION(S):

- (1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

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

(GA)01-PL2 Rev A Proposed Block Plan (Received 01/11/2021)

(GA)02-PL2 Rev A Proposed Site Plan (Received 01/11/2021)

(GA)03-PL2 Rev A Proposed Floor Plans Sh1 (Received 01/11/2021)

(GA)04-PL2 Rev A Proposed Floor Plans Sh2 (Received 01/11/2021)

(GA)05-PL2 Rev A Proposed Floor Plans Sh3 (Received 01/11/2021)

(GA)06-PL2 Rev A Proposed Elevations Sh1 (Received 01/11/2021)

(GA)07-PL2 Rev A Proposed Elevations Sh2 (Received 01/11/2021)

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14687 Planning Statement [October 2021] (Received 01/11/2021)

Design and Access Statement – Part 1 & 2 [October 2021] (Received 01/11/2021)

Daylight and Sunlight Report [prepared by Waterslade] [May 2020] (Received 01/11/2021)

Daylight and Sunlight Addendum [prepared by Waterslade] (Received 01/11/2021)

2688 Rev F Transport Statement [prepared by EAS] (Received 01/11/2021)

SK05 Rev B Visibility Splay (Received 01/11/2021)

Ecology Appraisal Report [prepared by Wychwood Environmental Ltd] [May 2020] (Received 01/11/2021)

Energy and Sustainability Report [prepared by Envision] [October 2021] (Received 01/11/2021)

Reptile Survey [June 2020] (Received 01/11/2021)

Flood Risk Assessment and Drainage Strategy [prepared by Waterman Infrastructure & Environment Limited] [October 2021] (Received 01/11/2021)

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) Prior to above ground works, sample panels showing examples of all principle areas of brickwork, soffits, reveals, curved surfaces and parapets shall be prepared for inspection and approval by the Location Planning Authority. These shall be maintained on site during construction work and used as models for colour, texture as well as brick module, bond, pointing and mortar colour. The development shall be carried out in accordance with the approved details.

Reason: To secure a satisfactory appearance on completion of the development in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (4) Prior to above ground works, details/sections of all eaves, parapets, windows (including head, sill and window reveal details), rainwater goods, extraction ducts, balustrades, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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Reason: To secure a satisfactory appearance on completion of the development in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (5) Prior to above ground works, details of a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include details of the materials used for the widened access road with consideration given to the principles of shared space that ensures a safe environment for all, particularly pedestrians. The approved scheme shall be implemented so that planting can be carried out during the first planting season following the occupation of the building(s) or the completion of the development whichever is the sooner. All planted materials shall be maintained for five years and any trees or shrubs which die during this period shall be replaced in the first available planting season, and the area shown to be landscaped shall be permanently retained for that purpose only, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to secure a satisfactory appearance on completion of the development in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (6) The approved areas of hardstanding shall be porous or permeable, or shall direct surface water to a porous or permeable surface within the site and shall thereafter be maintained as such.

Reason: To reduce surface water runoff from the site in accordance with Policies CS6 (Sustainability in New Developments) and DM19 (Development and Flood Risk) of the LDF Development Management Policies Document (2015).

- (7) Prior to above ground works, details of all boundary treatment to be used for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: To secure a satisfactory appearance on completion of the development in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

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- (8) Before any occupation of the development hereby permitted, the side facing windows on the north east elevation facing No. 113 East Street, shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing to a minimum of level 3 on the standard scale. Any film used to achieve the requisite obscurity level shall be non-perishable and tamper-proof, and must be replaced in the event that it ceases in obscurity level 3.

Reason: To protect the amenities and privacy of the proposed new residential property in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (9) Prior to above ground works, details of existing and proposed finished site levels, finished floor and ridge levels of the development, and finished external surface levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the area / in order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies (2015).

- (10) No part of the development shall be first occupied unless and until the proposed modified access to Kiln Lane has been constructed and provided with visibility zones in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority (in general accordance with SK05 Rev B) and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (11) The development shall not be first occupied unless and until the existing private access road has been widened to 5m between Kiln Lane and the access to the proposed parking area, in general accordance with (GA)02-PL2 Rev A, and thereafter shall be kept permanently retained and maintained.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the

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NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (12) The development hereby approved shall not be first occupied unless and until the existing access from the site to East Street has been permanently closed and any kerbs, verge, footway fully reinstated.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (13) No development shall commence until a Construction Transport Management Plan, to include details of:

(a) parking for vehicles of site personnel, operative and visitors

(b) loading and unloading of plant and materials

(c) storage of plant and materials

(d) HGV deliveries and hours of operation

(e) on-site turning for construction vehicles

(f) measures to prevent the deposit of materials on the highway

has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented throughout the construction of the development.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (14) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

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- (15) The development hereby approved shall not be first occupied unless and until a pedestrian inter-visibility splay measuring 2m by 2m has been provided on each side of the access to Kiln Lane, the depth measured from the back of the footway (or verge) and the widths outwards from the edges of the access. No obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (16) The development hereby approved shall not be occupied unless and until each of the proposed parking spaces are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

Reason: In recognition of Section 9 “Promoting Sustainable Transport” of the NPPF (2021) and to accord with Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policies DM36 (Sustainable Transport for New Development) and DM37 (Parking Standards) of the LDF Development Management Policies Document (2015).

- (17) Prior to occupation of the development, a Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Car Park Management Plan shall be implemented and for each and every subsequent occupation of the development to the satisfaction of the Local Planning Authority.

Reason: To ensure the efficient and functional use of the car parking area, to safeguard the amenity of future occupiers of the approved development and to ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users, and to accord with Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policies DM10 ((Design Requirements for New Developments (including House Extensions)) and DM36 (Sustainable Transport for New Development) of the LDF Development Management Policies Document (2015).

- (18) The development hereby approved shall not be first occupied unless and until the facilities for the secure parking of 25 bicycles have been provided in accordance with the approved plans and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

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Reason: In recognition of Section 9 “Promoting Sustainable Transport” of the NPPF (2021) and to accord with Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policies DM36 (Sustainable Transport for New Development) and DM37 (Parking Standards) of the LDF Development Management Policies Document (2015).

- (19) Upon first occupation residents shall be provided with a travel information pack, including information for residents regarding the availability of and whereabouts of local public transport / walking / cycling / car sharing clubs / car clubs and include a £50 oyster card contribution as set out in the Transport Statement (Oct 2021) to the satisfaction of the Local Planning Authority.

Reason: In recognition of Section 9 “Promoting Sustainable Transport” of the NPPF (2021) and to accord with Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policies DM36 (Sustainable Transport for New Development) and DM37 (Parking Standards) of the LDF Development Management Policies Document (2015).

- (20) Unless otherwise agreed by the Local Planning Authority, the following must be undertaken prior to any occupation of the site, in accordance with current best practice guidance:
- (i) a site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas (including volatile hydrocarbons) and contaminants with the potential to impact sensitive receptors on and off site. The scope and detail of these are subject to the approval in writing by the local planning authority. The results of the investigation and risk assessment shall be submitted to and approved by the Local Planning Authority; and
 - (ii) if ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management measures shall be designed and submitted to the Local Planning Authority for approval. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority.

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, in accordance with Policy DM17 (Contaminated Land) of the LDF Development Management Policies Document (2015).

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(21) The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

a) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events, during all stages of the development. The final solution should follow the principles set out in the approved drainage strategy. Associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 1 l/s.

b) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.).

c) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.

d) Details of drainage management responsibilities and maintenance regimes for the drainage system.

e) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

Reason: To ensure the design meets the national Non-Statutory Technical Standards for SuDS and the final drainage design does not increase flood risk on or off site.

(22) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure the Drainage System is constructed to the National Non-Statutory Technical Standards for SuDS.

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- (23) No construction shall take place within 5 metres of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works.

Reason: The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on the local underground water utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.

<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

Should you require further information please contact Thames Water.
Email: developer.services@thameswater.co.uk.

- (24) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme of works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on the local underground water utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.

<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

Should you require further information please contact Thames Water.
Email: developer.services@thameswater.co.uk.

- (25) The development hereby approved shall not commence until a Source Protection Strategy detailing, how the developer intends to ensure the water

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abstraction source is not detrimentally affected by the proposed development both during and after its construction has been submitted to and approved by, the Local Planning Authority in consultation with the water undertaker. The development shall be constructed in line with the recommendations of the strategy.

Reason: To ensure that the water resource is not detrimentally affected by the development. More detailed information can be obtained from Thames Waters' Groundwater Resources Team email GroundwaterResources@Thameswater.co.uk. Tel: 0203 577 3603.

- (26) Prior to the occupation of the development, a refuse, deliveries and servicing waste management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse, deliveries and service waste management plan shall be implemented and for each and every subsequent occupation of the development, to the satisfaction of the Local Planning Authority.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2019) and Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007).

- (27) Prior to occupation of the development, details of how the proposed recycling strategy would meet national waste strategy targets, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter maintained, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Policy CS6 (Sustainability in New Development) of the LDF Core Strategy (2007).

- (28) No development shall take place until a scheme to enhance the biodiversity interest of the site and a plan of its implementation in accordance with the proposals outlined in the Ecological Appraisal Report [prepared by Wychwood Environmental Ltd] has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved and thereafter maintained.

Reason: To safeguard and enhance biodiversity in accordance with Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015).

- (29) The site and building works required to implement the development hereby approved shall only take place between the hours of 08.00 and 18.00

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Mondays to Fridays and between 08.00 and 13.00 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies (2015).

- (30) Prior to the first occupation of any part of the development, details of water efficiency measures shall be submitted to and approved in writing by the local planning authority. The details shall show a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption. The measures shall be installed in accordance with the approved details and thereafter maintained as for as long as the development is in use.

Reason: To ensure that the development is sustainable and makes efficient use of water in accordance with Policy CS6 (Sustainability in New development) of the LDF Core Strategy (2007).

- (31) All non-CHP space and hot water fossil fuel (or equivalent hydrocarbon based fuel) boilers installed as part of the development must achieve dry NOx emission levels equivalent to or less than 30 mg/kWh.

Reason: To protect air quality and people's health by ensuring that the production of air pollutants, such as nitrogen dioxide and particulate matter, are kept to a minimum during the course of building works and during the lifetime of the development. To contribute towards the maintenance or to prevent further exceedances of National Air Quality Objectives.

- (32) Prior to any construction above slab level taking place, all residential units and their communal areas hereby approved shall comply with Regulation 38 of the Building Regulations – Fire Safety.

Reason: In order to comply with Policy CS6 (Sustainability in New Development) of the LDF Core Strategy (2007).

INFORMATIVE(S):

- (1) In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

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- (2) Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.
- (3) The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:
- carry out work to an existing party wall;
 - build on the boundary with a neighbouring property;
 - in some circumstances, carry out groundwork's within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

- (4) The permission hereby granted shall not be construed as authority to carry out any works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/floodingadvice.

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- (5) The developer is advised that as part of the detailed design of the highway works required by the above condition(s), the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.
- (6) Section 59 of the Highways Act 1980 permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant/organisation responsible for the damage.
- (7) The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
- (8) It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to: <http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector types.
- (9) Notwithstanding any permission granted under the Planning Acts, no signs, devices or other apparatus may be erected within the limits of the highway without the express approval of the Highway Authority. It is not the policy of the Highway Authority to approve the erection of signs or other devices of a non-statutory nature within the limits of the highway.
- (10) The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding or any other device or apparatus for which a licence must be sought from the Highway Authority Local Highways Service.
- (11) If proposed site works affect an Ordinary Watercourse, Surrey County Council as the Lead Local Flood Authority should be contacted to obtain prior written Consent. More details are available on our website.

If proposed works result in infiltration of surface water to ground within a Source Protection Zone the Environment Agency will require proof of surface water treatment to achieve water quality standards.

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If there are any further queries please contact the Flood Risk Asset, Planning, and Programming team via SUDS@surreycc.gov.uk. Please use our reference number in any future correspondence.

- (12) CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.
- (13) Please be advised, the private waste management company is expected to move the bins via a dedicated bin lift to a holding pen at ground floor level, ready for collection from East Street as shown in Dwg No. (GA)02-PL2 Rev A. Thereafter, all bin arrangements must be put in place to allow for the waste collection service to operate effectively and the Council will not be responsible for missed collections in the event waste management process is not in place.

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Ward:	College Ward;
Site:	Land Rear of 23A to 33 Links Road, Epsom, Surrey
Application for:	Erection of three dwellings with associated access, parking, landscaping and other minor ancillary development
Contact Officer:	Euan Cheyne

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: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R221XMGYM2N00>

2 Summary

- 2.1 The application is classified as a minor planning application, which has been called into the Planning Committee by Councillor Julie Morris on 02/12/2021, on overdevelopment and backland development grounds.
- 2.2 The application seeks planning permission for the erection of 3 x 5 bedroom detached dwellings with associated access, parking, landscaping and other minor ancillary development.
- 2.3 The proposed dwellings would be located to the rear of the established frontage properties on Links Road and Higher Green, therefore they would not be highly visible from the streetscene. Consequently, the proposed development would not be seen as forming part of the immediate context of the frontage properties on Links Road and Higher Green, therefore any impact upon the streetscene is considered to be negligible.
- 2.4 The proposed dwellings, by reason of their siting (sufficiently set in from the respective shared boundaries) in relation to the neighbouring built form, is not considered to have any significant impact upon neighbouring residential amenities.
- 2.5 The proposal would provide 9 on-site car parking spaces, therefore complying with the minimum standards set out in Table 1 of the Council's Parking Standards for Residential Development SPD (2015).

- 2.6 The proposed development would comprise of 14 replacement trees, a mix of Silver Birch and Lime trees. There would also be native hedgerow planting throughout the site. It is considered that there would be some betterment on site i.e. more trees are planted than would be lost and thus the loss of T2, T27 and T28 has been mitigated. The Council's Arboricultural Officer has raised no objection in principle.
- 2.7 A number of ecological enhancement measures are proposed to include the creation of native hedgerows, native wildflower green roof planting and bird/bat boxes. The Council's Ecology Officer has raised no objections, subject to a planning condition outlining the implementation and monitoring of the proposed enhancements.
- 2.8 There is a presumption in favour of granting sustainable development unless the application policies provides a clear reason for refusing permission (Paragraph 11(d)(i) of the NPPF). The adverse impacts of the development are not held to significantly and demonstrably outweigh the benefits, when assessed against the NPPF, as a whole.
- 2.9 The planning history of the site is a substantial material consideration in this case. The Planning Inspectorate in both dismissed appeal decisions (ref. APP/P3610/W/16/3165832 in 2017 and ref. APP/P3610/W/19/3240329 in 2020) concluded that the application site is not a rear garden, therefore the specific presumption against the loss of rear domestic gardens in Policy DM16 does not apply.
- 2.10 It is considered that the proposal has taken into account the previous concerns raised by the Planning Inspector on the harmful effect on character and appearance of the surrounding area/experienced from the rear of properties on Links Road and the relationship with nearby trees and overcome them.
- 2.11 The application is recommended for APPROVAL subject to planning conditions being imposed.

3 Site Description

- 3.1 The site comprises an oblong parcel of land of approximately 0.355 hectares located to the rear of No's. 23A to 33 Links Road and the rear of No's 35 to 45 Higher Green. It is located on the north east side of Links Road. The site includes an access strip located between No's. 25 and 27 Links Road.
- 3.2 The site presently comprises of large areas of grassland with mature trees located around the site's periphery. The surrounding area is predominantly residential in character and appearance comprising of two storey detached properties.

- 3.3 The site does not contain a Listed Building and is not located within a Conservation Area, however the site backs onto the Higher Green Conservation Area. There are a number of Tree Preservation Orders (TPOs) around the perimeter of the site.

4 Proposal

- 4.1 The application proposes the erection of three dwellings with associated access, parking, landscaping and other minor ancillary development.

5 Comments From Third Parties

- 5.1 The application was advertised by means of letter of notification to 15 neighbouring properties. To date (02/03/2022) 47 letters of objection (not including duplicates or those from the same address) have been received, summarised below:

- no material difference in this application compared to previous refused applications
- inappropriate backland development
- adverse visual impact
- design; inappropriate architectural style
- impact on character; bulk and size of buildings out of proportion to the size of the land to be developed
- development is on the edge of the Higher Green Conservation Area; the outlook from residents back gardens should be preserved
- generation of noise and disruption
- impact on drainage, flooding etc.
- impact on ecology/wildlife etc.
- impact on biodiversity; concern that proposed green roofs will not be maintained to a standard that enhances biodiversity
- threat to the garden land, trees and wildlife that currently resides on this piece of land
- potential root damage to trees
- loss of light
- overbearing
- loss of outlook

- impact on neighbour amenities
- traffic/parking implications; significant potential for accidents from the entrance to the proposed development
- contrary to local plan policies
- proposed buildings are not modest in terms of their scale, bulk and footprint in conflict with Policy DM16
- would set a precedent for the rest of the street to start building homes in back gardens

A petition objecting to the planning application with 267 signatures to date (02/03/2022) has also been received.

A small number of objection letters contained non-planning related matters (e.g. problems arising from the construction period and restrictive covenants).

To date (02/03/2022) 20 letters of support have been received, summarised below:

- support design
- will add value to the area
- proposed houses are not visible from Links Road or Higher Green so no adverse visual impact
- will help meet housing targets; question why more cannot be provided
- energy efficient homes
- development will still leave plenty of garden and space for wildlife
- existing utilities will be more than capable of dealing with any extra demand
- adequate parking provision

The neighbouring properties formally notified of the application were No's. 23, 23A, 25, 27 and 29 Links Road; and No's. 35, 37, 39, 41 and 43 Higher Green.

The application site address is stated to be Land Rear of 23A to 29 Links Road, however the red line site boundary also lies to the rear of No's. 31 and 33 Links Road. As such, No's. 31, 33 and 37 Links Road; and No's. 45 and 47 Higher Green were later formally notified of the application.

6 Consultations

- 6.1 **Surrey County Council Highway Authority (CHA):** No objections, subject to planning conditions.
- 6.2 **Epsom and Ewell Borough Council Arboricultural Officer:** No objections in principle, subject to planning conditions. There needs to be a tree protection condition applied requiring submission of tree protection details and method statements, because the service plans have not had the benefit of arboricultural appraisal. On balance consider that plots 1 and 2 are acceptable, but it would be preferable from a future living standards perspective to have just one house.
- 6.3 **Epsom and Ewell Borough Council Ecology Officer:** No objections, subject to a planning condition outlining the implementation and monitoring of the proposed enhancements.

7 Relevant Planning History

19/00354/FUL	Erection of 4 new dwellings and associated access, parking and landscaping.	Application Refused 31/05/2019; Appeal Dismissed 24/02/2020
16/00213/FUL	Erection of 4 new dwellings, vehicular and pedestrian access, parking and secure cycle storage and landscaping.	Application Refused 11/07/2016; Appeal Dismissed 09/06/2017

8 Planning Policy

National Planning Policy Framework (NPPF) (July 2021)

Local Development Framework (LDF) Core Strategy (July 2007)

Policy CS3 – Biodiversity

Policy CS5 – The Built Environment

Policy CS6 – Sustainability in New Developments

Policy CS16 – Managing Transport and Travel

LDF Development Management Policies Document (September 2015)

Policy DM4 – Biodiversity and New Development

Policy DM5 – Trees and Landscape

Policy DM8 – Heritage Assets

Policy DM9 – Townscape Character and Local Distinctiveness

Policy DM10 – Design Requirements for New Developments (including House Extensions)

Policy DM11 – Housing Density

Policy DM12 – Housing Standards

Policy DM16 – Backland Development

Policy DM21 – Meeting Local Housing Needs

Policy DM22 – Housing Mix

Policy DM35 – Transport for New Development

Policy DM36 – Sustainable Transport for New Development

Policy DM37 – Parking Standards

9 Planning Considerations

9.1 The main issues for consideration in relation to this application are as follows:

- Principle of Development
- Quality of Accommodation
- Housing Mix
- Impact upon Character and Appearance of the Area
- Impact upon Neighbouring Residential Amenities
- Highways, Parking and Cycle Parking
- Refuse and Recycling Facilities
- Trees and Landscaping
- Biodiversity and Ecology
- Sustainability
- Community Infrastructure Levy (CIL)
- Conclusion/Planning Balance

Principle of Development

- 9.2 Paragraph 60 of the NPPF (2021) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 9.3 Paragraph 69 of the NPPF (2021) states [inter alia] that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
- 9.4 Policy CS7 (Housing Provision) of the Council's LDF Core Strategy (2007) states that the Council will seek to ensure sufficient housing is provided to meet the Borough's housing requirement. The Council's annual housing target has increased significantly since the adoption of the LDF Core Strategy (2007) and Epsom and Ewell Borough Council currently has an annual housing target of 695 (including 20% buffer) new residential dwellings per year.
- 9.5 Meeting any increase in the annual housing target will be challenging, by reason that the Borough is mostly comprised of existing built up areas, strategic open spaces or Green Belt, therefore the supply of available development sites is now extremely limited. As such, it is important that available sites are optimised for housing delivery.
- 9.6 The planning history of the site is a substantial material consideration in this case. In 2017 (ref. APP/P3610/W/16/3165832) and 2020 (ref. APP/P3610/W/19/3240329) there were two appeals, both dismissed. The proposed development in both of these appeals was for the erection of 4 detached dwellings, arranged at angles to each other and of a contemporary design. The most recent 2020 appeal decision was dismissed on the grounds that the scale and density of the development proposed would have a harmful impact on the character and appearance of the surroundings and result in the loss of trees that make an important contribution to the area.
- 9.7 Policy DM16 (Backland Development) of the Council's LDF Development Management Policies Document (2015) states that there will be a presumption against the loss of rear domestic gardens due to the need to maintain local character, amenity space, green infrastructure and biodiversity.
- 9.8 The Planning Inspectorate in both dismissed appeal decisions concluded that the application site is not a rear garden, therefore the specific presumption against the loss of rear domestic gardens in Policy DM16 does not apply. It was further stated that the principle of achieving some development on the site would be acceptable, and thus the applicant in preparing this scheme has used this decision from which to basis their approach.

- 9.9 The application proposes a net gain of 3 residential units, therefore helping to contribute to these annual housing targets. In addition, the Council are currently unable to demonstrate a 5 year supply of land for the delivery of housing. As such, the presumption in favour of sustainable development and Paragraph 11(d) of the NPPF (2021) is a material planning consideration.
- 9.10 The surrounding area is predominantly residential in character and appearance, therefore current planning policy would not preclude the redevelopment of the site within an already developed urban residential area. As such, the principle of creating additional residential units is acceptable, subject to the below other material planning considerations.

Quality of Accommodation

- 9.11 Policy DM12 (Housing Standards) of the Council’s LDF Development Management Policies Document (2015) states that all new developments, including conversions, are required to comply with external and internal space standards.
- 9.12 The Nationally Described Space Standards (2015) sets out internal space standards for new dwellings at a defined level of occupancy. It further states that in order to provide one bedspace, a single bedroom has a floor area of at least 7.5sqm and in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5sqm.
- 9.13 Paragraph 3.35 of the LDF Development Management Policies Document (2015) states that to provide adequate private amenity space for development of houses, a minimum of total private outdoor space of 70sqm should be provided for 3 or more bedrooms and subject to development viability and practicality the Council will seek a minimum depth of 10 metres of domestic rear garden space.
- 9.14 The application proposes 3 x 5 bedroom detached dwellings.

Unit	Number of Bedrooms (b) / Number of Bed Spaces (p)	Minimum Gross Internal Area (GIA)	Proposed GIA
1	5b/8p	121sqm	269sqm
2	5b/8p	121sqm	269sqm
3	5b/9p	121sqm	400sqm

- 9.15 Policy DM12 (Housing Standards) of the Council’s LDF Development Management Policies Document (2015) states that amenity space for all new dwellings should be:
- (i) private, usable, functional, safe and bio-diverse;
 - (ii) easily accessible from living areas;
 - (iii) orientated to take account of the need for sunlight and shading;

- (iv) of a sufficient size to meet the needs of the likely number of occupiers; and
- (v) provide for the needs of families with young children where the accommodation is likely to be occupied as such.

9.16 The proposed dwellings would exceed the minimum internal and external space standards set out above, therefore providing adequate internal and private amenity arrangements.

9.17 As such, it is considered that the proposal would comply with Policy DM12 (Housing Standards) of the LDF Development Management Policies Document (2015) and the Technical Housing Standards – Nationally Described Space Standards (2015).

Housing Mix

9.18 Policy DM22 (Housing Mix) of the Council's LDF Development Management Policies Document (2015) states that the Council require all residential development proposals for four or more units be comprised of a minimum of 25% 3+ bedroom units, unless it can be demonstrated that the mix would be inappropriate for the location or endanger the viability of the proposal. It further states that on sites particularly suited to larger-sized family houses, the Council will encourage the proportion of units having 3 or more bedrooms, as specified above, to be exceeded.

9.19 It is considered that the site is an appropriate location for larger-sized family houses, therefore the proposal would comply with Policy DM22 (Housing Mix) of the LDF Development Management Policies Document (2015).

Impact upon Character and Appearance of the Area

9.20 The National Planning Policy Framework (NPPF) (2021) attaches great importance to the design of the built environment.

9.21 Paragraph 130 of the NPPF (2021) sets out that planning decisions should ensure that developments [inter alia] add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

9.22 Paragraph 134 of the NPPF (2021) states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- 9.23 Paragraph 3.7.5 of the Council's LDF Core Strategy (2007) sets out that new development should enhance and complement local character, and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm and which positively contributes to the townscape.
- 9.24 Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the Council's LDF Development Management Policies Document (2015) states that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:
- Prevailing development typology, including house type, sizes, and occupancy;
 - Prevailing density of the surrounding area;
 - Scale, layout, height, form, massing;
 - Plot width and format which includes spaces between buildings;
 - Building line build up, set back, and front boundary; and
 - Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.
- 9.25 The proposed layout would be of a more regular, orthogonal pattern of buildings, responding to Links Road and Higher Green. The proposed dwellings would be of a L-shaped footprint and would be designed with a flat roof form, to a maximum height of approximately 6.5 metres.
- 9.26 The proposed dwellings would be located to the rear of the established frontage properties on Links Road and Higher Green, therefore they would not be highly visible from the streetscene. Consequently, the proposed development would not be seen as forming part of the immediate context of the frontage properties on Links Road and Higher Green, therefore any impact upon the streetscene is considered to be negligible.
- 9.27 The proposed development, by reason of its siting in relation to the neighbouring Higher Green Conservation Area and the tree screening that will remain, is not considered to have any significant impact upon the setting of the adjacent Higher Green Conservation Area.

- 9.28 The Planning Inspector stated in appeal ref. APP/3610/W/19/3240329; Paragraph 9 that the layout and design of the proposed development is a concern due to its effect on the character and appearance of the area as experienced from the rear of the properties on Links Road. They go onto state in Paragraph 11 that as a result of the density, in views from surrounding properties the dwellings would appear close together which would give them a cluttered appearance. The positioning of the dwellings, at angles to each other, would contrast poorly with the more regular pattern of buildings in the area and would further reinforce the cramped appearance.
- 9.29 It is considered that the applicant has addressed and overcome the previous concerns raised by the Planning Inspector. This scheme would have a reduced developed area, volume and height with an orthogonal alignment of built form which is considered to be more compatible with the surrounding urban grain. The proposed dwellings are considered to be placed more compactly within the centre of the site, therefore maintaining a greater openness to the site.
- 9.30 The choice of materials will be particularly important in terms of designing a high quality development and to ensure that the design is appropriate within the surrounding local context. The proposed materials and finishes would comprise of dark brick, metal cladding and timber cladding for the external walls, ply membrane with grass covering for the roof and dark grey aluminium framed windows. The contemporary materials palette, designed to sit camouflaged amongst the established sylvan backdrop, is considered acceptable in principle in this location, however it is considered that further details and samples should be secured via a planning condition to ensure a high quality appearance of completion of the development.
- 9.31 As such, it is considered, that the proposal would comply with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

Impact upon Neighbouring Residential Amenities

- 9.32 Policy DM10 (Design Requirements for New Developments (including House Extensions)) Council's LDF Development Management Policies Document (2015) seeks to safeguard residential amenities in terms of privacy, outlook, daylight/sunlight and, noise and disturbance.

- 9.33 It is considered that the location of the proposed dwellings would be of a sufficient distance away from neighbouring properties to ensure there would be no significant impact upon neighbouring residential amenities. The side elevation of Plot 1 would be located approximately 24.8 metres from No. 25 Links Road, the side elevation of Plot 2 would be located approximately 43.1 metres from No. 37 Higher Green and the side elevations of Plot 3 would be located approximately 42.7 metres from No. 41 Higher Green and approximately 37.9 metres from No. 27 Links Road. Furthermore, the majority of the existing screening by trees would remain, therefore any overshadowing would be no greater than the existing set up.
- 9.34 There are no first floor side facing windows, therefore there is not considered to be any undue overlooking or issues regarding privacy to the properties located on Links Road or Higher Green.
- 9.35 There would be more comings and goings in comparison to the existing set up, however any increase in noise and disturbance would be compatible within a built up area/residential setting and would not be significant enough to warrant grounds for refusal.
- 9.36 As such, it is considered that the proposal would not have any detrimental impact upon the residential amenities of neighbouring properties in terms of loss of natural light, overshadowing, loss of privacy, overlooking or loss of outlook and would comply with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

Highways, Parking and Cycle Parking

- 9.37 Paragraph 111 of the NPPF (2021) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.38 Policy CS16 (Managing Transport and Travel) of the Council's LDF Core Strategy (2007) states [inter alia] that development proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements and ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.
- 9.39 Policy DM37 (Parking Standards) of the Council's LDF Development Management Policies Document (2015) seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.

- 9.40 Table 1 of the Council's Parking Standards for Residential Development SPD (2015) requires a minimum of 3 off-street car parking spaces per 4+ bedroom house. As such, in accordance with Table 1 the proposal should provide a minimum of 9 car parking spaces.
- 9.41 Surrey Design: A Strategic Guide for Quality Built Environments: Technical Appendix (2002) states that the minimum carriageway for 0-25 dwelling is 4.1 metres.
- 9.42 Dwg No. 405(PL)05 – Proposed Ground Floor GA Plans demonstrates that the proposal would be provided with 9 car parking spaces, 3 per dwelling, therefore complying with the above standards. The existing access strip located between No's. 25 and 27 Links Road has a width of approximately 5.5 metres. This is considered to be of a sufficient width to accommodate two cars to pass (infrequent event due to the number of units proposed) on the access strip. It would comply with the minimum carriageway widths set out above.
- 9.43 The site includes an access strip located between No's. 25 and 27 Links Road.
- 9.44 Surrey County Council Vehicular and Cycle Parking Guidance (2018) requires 2 cycle spaces per 3+ bedroom units. Dwg No. 405(PL)05 – Proposed Ground Floor GA Plans indicates provision for 2 covered and secure bicycle spaces per dwelling, therefore complying with the standards.
- 9.45 Surrey County Council Highway Authority raised no objections to the proposal, subject to planning conditions. The CHA have recommended that a permeable bound material is used for the driveway to prevent any material being dragged onto the highway from vehicles utilising the access. This aspect will be secured via a planning condition.
- 9.46 It is acknowledged that there does not appear to be a dedicated footpath as part of the access strip into the site from Links Road, however by reason of the infrequent use of the access strip due to the number of units proposed, it is considered that a shared space concept where people and traffic are not clearly separated would be acceptable in this instance. Furthermore, no issues were found in any of the previous applications or appeals with regards to access arrangements.
- 9.47 As such, it is considered that the proposal would not give rise to any severe highway impacts and would comply with the NPPF, Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policy DM37 (Parking Standards) of the LDF Development Management Policies Document (2015).

Refuse and Recycling Facilities

- 9.48 Dwg No. 405(PL)05 – Proposed Ground Floor GA Plans indicates refuse and recycling storage to the front of each dwelling. It is considered that further details of the refuse/recycling storage shall be provided to ensure that it is fit for purpose. This aspect will be secured via a planning condition.
- 9.49 Section 4.10 of the submitted Design and Access Statement shows a swept path analysis which demonstrates that the refuse vehicle would be able to enter the site and turn and exit in forward gear.

Trees and Landscaping

- 9.50 Policy DM5 (Trees and Landscape) of the Council's LDF Development Management Policies Document (2015) sets out that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by [inter alia]:
- continuing to maintain trees in streets and public open spaces and selectively removing, where absolutely necessary, and replacing and replanting trees;
 - requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature trees and other planting.
- 9.51 It is imperative that where possible every effort is made to incorporate as much soft landscaping as possible to avoid an over dominance of hard landscaping.
- 9.52 The applicant has submitted an Arboricultural Implications Report and Method Statement [prepared by David Archer Associates].
- 9.53 The following trees are to be removed to facilitate the development:
- T2 – Ash (Category C)
 - T28 – Lime (Category B)
- 9.54 The Council's Arboricultural Officer has raised some concern with the poor relationship of Plots 1 and 2 with T6, T7 and T8, advising that these Sycamore are very large specimens and they will be very dominant to the house and the garden amenity space. It is considered that one larger plot on this side would be more desirable so there is more garden space and a more harmonious building spatial separation from the trees, however by reason that these are outside the application site and the Council would still be able to control the level of pruning and resist unjust felling proposals, it is considered that two plots/houses on this side would be on balance acceptable.

- 9.55 The Council's Arboricultural Officer has stated that with the passage of time they no longer consider it sustainable to retain T27 – Horse Chestnut, by reason that this tree has limited useful life expectancy. It is considered that retaining a large tree in such a condition and so dominant to the rear environs of the house it is not sustainable as the tree will quickly become a safety liability.
- 9.56 The siting of the proposed dwellings more compactly within the centre of the site is considered to allow for a greater distance from the root protection areas of nearby trees and is therefore considered to overcome the concerns raised by the Planning Inspector.
- 9.57 The proposed development would comprise of 14 replacement trees, a mix of Silver Birch and Lime trees. There would also be native hedgerow planting throughout the site. It is considered that there would be some betterment on site i.e. more trees are planted than would be lost and thus the loss of T2, T27 and T28 has been mitigated.
- 9.58 It is considered that further details of hard and soft landscaping should be secured via a planning condition. As such, it is considered that the proposal would comply with Policy DM5 (Trees and Landscape) of the LDF Development Management Policies Document (2015).

Biodiversity and Ecology

- 9.59 Policy CS3 (Biodiversity) of the Council's LDF Core Strategy (2007) states [inter alia] that wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 9.60 Policy DM4 (Biodiversity and New Development) of the Council's LDF Development Management Policies Document (2015) states that development affecting existing or proposed nature conservation sites and habitats of international, national or local importance will only be permitted if [inter alia] the development would enhance the nature conservation potential of the site or is proven to be necessary for the conservation management of the site.
- 9.61 Policy DM4 (Biodiversity and New Development) of the Council's LDF Development Management Policies Document (2015) further sets out that development affecting any site or building that supports species protected by Law, including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.

- 9.62 The applicant has submitted an Ecological Statement [prepared by The Ecology Co-op Environmental Consultants], following a repeat walkover survey, further to a Phase 1 Habitat survey undertaken in March 2016 and a subsequent updated appraisal in February 2019. It concludes that habitat value and conditions of the site have not significantly changed from those recorded in February 2019 and March 2016.
- 9.63 The Ecology Statement indicates that a number of enhancement measures are proposed to include the creation of native hedgerows, native wildflower green roof planting and bird/bat boxes, as well as the removal of cherry laurel and buddleia could be removed from the site to prevent these non-native invasive species from spreading.
- 9.64 The Council's Ecology Officer has no objections to the findings of the Ecology Statement, subject to a planning condition outlining the implementation and monitoring of the proposed enhancements.
- 9.65 As such, it is considered that the proposal would comply with Policy CS3 (Biodiversity) of the LDF Core Strategy (2007) and Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015).

Sustainability

- 9.66 Policy CS6 (Sustainability in New Developments) of the Council's LDF Core Strategy (2007) states [inter alia] that development should result in a sustainable environment and ensure that new development minimises the use of energy in the scheme, minimises the emission of pollutants into the wider environment, minimises the energy requirements of construction and incorporates waste management processes.
- 9.67 It is considered that environmental sustainability should be integral to all development.
- 9.68 It is considered that the proposal would be able to secure a sustainable development outcome and would comply with the NPPF (2021), Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015) and Policy CS6 of the LDF Core Strategy (2007).

Community Infrastructure Levy (CIL)

- 9.69 The proposal would be CIL liable.

Conclusion/Planning Balance

- 9.70 Paragraph 11(d) of the NPPF (2021) states that for decision-making the Council should approve planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 9.71 The Council are unable to demonstrate a 5 year supply of land for the delivery of housing. As such, the presumption in favour of sustainable development and Paragraph 11(d) of the NPPF (2021) is a material planning consideration.
- 9.72 The provision of 3 family-sized residential units each with private amenity space would provide a significant public benefit, which weighs in favour of the scheme. Paragraph 60 of the NPPF (2021) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The provision of additional housing comprises a substantial social benefit.
- 9.73 Taking all the matters into account, including all other material planning considerations, it is found that the benefits would significantly and demonstrably outweigh the minor negative impacts when assessed against the policies of the NPPF as a whole. The proposal would represent sustainable development. It is considered that the proposal has taken into account and overcome the previous concerns raised by the Planning Inspector on the harmful effect on the character and appearance of the surrounding area/experienced from the rear of properties on Links Road and the relationship with nearby trees and overcome them.

CONDITION(S):

- (1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

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

405(PL)00 Location Plan
405(PL)02 Proposed Ground Floor Site Plan
405(PL)03 Proposed First Floor Site Plan
405(PL)04 Proposed Roof Level Site Plan
405(PL)05 Proposed Ground Floor GA Plans
405(PL)06 Proposed First Floor GA Plans
405(PL)07 Proposed Elevations – Unit 1
405(PL)08 Proposed Elevations – Unit 2
Preliminary Ecological Appraisal Phase 1 Habitat Assessment
Ecological Statement
Arboricultural Implications Report and Method Statement
Energy and Sustainability Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) Prior to above ground works, details and samples of all external materials (including boundary treatment) to be used for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To secure a satisfactory appearance on completion of the development in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (4) Prior to beneficial occupation, details of the design and external appearance of the boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the area and to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies (2015).

- (5) Prior to above ground works, details of existing and proposed finished site levels, finished floor and ridge levels of the proposed dwelling to be erected, and finished external surface levels have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the area / in order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies (2015).

- (6) Prior to above ground works, details of a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented so that planting can be carried out during the first planting season following the occupation of the building(s) or the completion of the development whichever is the sooner. All planted materials shall be maintained for five years and any trees or shrubs which die during this period shall be replaced in the first available planting season, and the area shown to be landscaped shall be permanently retained for that

purpose only, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to secure a satisfactory appearance on completion of the development in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (7) The approved areas of hardstanding will be porous or permeable, or shall direct surface water to a porous or permeable surface within the site and shall thereafter be maintained as such.

Reason: To reduce surface water runoff from the site in accordance with Policy CS6 (Sustainability in New Developments) and Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (8) No part of the development shall be first occupied unless and until the proposed modified vehicle access has been constructed using a permeable bound material in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (9) No part of the development shall be first occupied unless and until the proposed pedestrian access has been constructed in accordance with Dwg No. 405 (PL) 02 Rev C.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (10) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with Dwg No. 405 (PL) 02 Rev C for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policies DM35 (Transport and New Development) and DM37 (Parking Standards) of the LDF Development Management Policies Document (2015).

- (11) The development hereby approved shall not be occupied unless and until each of the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

Reason: In recognition of Section 9 “Promoting Sustainable Transport” of the NPPF (2021) and to accord with Policy DM36 (Sustainable Transport for New Development) of the LDF Development Management Policies Document (2015).

- (12) No development shall commence until a Construction Transport Management Plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials;
- (d) provision of boundary hoarding behind any visibility zones;
- (e) measures to prevent the deposit of materials on the highway;
- (f) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused;
- (g) on-site turning for construction vehicles (or measures for traffic management)

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during construction of the development.

Reason: In order that the development would not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the NPPF (2021) and Policy DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (13) The development hereby approved shall not be occupied until details of the refuse and recycling facilities for the occupants of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory refuse and recycling facilities in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (14) Prior to commencement of the development (other than ground works and access construction) a Tree Protection Plan and Method Statement in

accordance with British Standard 5837:2012 (or later revision) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with the Tree Protection Plan. Within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of above or below ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the Local Planning Authority. The fencing shall be maintained in accordance with the approved details, until all equipment, machinery and surplus materials have been moved from the site.

Reason: To protect the trees on site which are to be retained in the interests of visual amenities in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM5 (Trees and Landscape) and DM9 (Townscape Character and Local Distinctiveness) of the LDF Development Management Policies Document (2015).

- (15) The development hereby approved shall be carried out in accordance with the submitted Arboricultural Implications Report. A completed schedule of site supervision inspection and monitoring of the arboricultural protection measures shall be submitted to and approved in writing by the Local Planning Authority within 28 days from completion of the development hereby approved. This condition may only be fully discharged on completion of the development, subject to satisfactorily written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout the construction by a suitably qualified and pre-appointed tree specialist.

Reason: To protect the trees on site which are to be retained in the interests of visual amenities of the locality in accordance with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policy DM5 (Tree and Landscape) of the LDF Development Management Policies Document (2015).

- (16) Prior to above groundworks a scheme to enhance the biodiversity interest of the site and a plan of its implementation in accordance with the proposals outlined in the Ecological Statement [prepared by The Ecology Co-op Environmental Consultants] shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved and thereafter maintained.

Reason: To preserve and enhance biodiversity and habitats in accordance with Policy CS3 (Biodiversity and Nature Conservation Areas) of the LDF Core Strategy (2007) and Policy DM4 (Biodiversity and New Development) of the LDF Development Management Policies Document (2015).

INFORMATIVE(S):

- (1) In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.
- (2) Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.
- (3) When undertaking demolition and/or building work, please be considerate to your neighbours and do not undertake work before 8am or after 6pm Monday to Friday, before 8am or after 1pm on a Saturday or at any time on Sundays or Bank Holidays. Furthermore, please ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway. You are advised that the Council does have formal powers to control noise and nuisance under The Control of Pollution Act 1974, the Clean Air Acts and other relevant legislation. For further information and advice, please contact - Environmental Health Department Pollution Section.
- (4) The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:
 - carry out work to an existing party wall;
 - build on the boundary with a neighbouring property;
 - in some circumstances, carry out groundwork's within 6 metres of an adjoining building.Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

- (5) It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to:
<http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector types.
- (6) The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
- (7) Section 59 of the Highways Act 1980 permits the Highway Authority to charge developers for damage cause by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant/organisation responsible for the damage.

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Ward:	Ruxley
Site:	140 - 142 Ruxley Lane West Ewell Surrey KT19 9JS
Application for:	Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping
Contact Officer:	Gemma Paterson

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.
- 1.2 Link: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QYCN4GGYLJ300>

2 Background

- 2.1 Members may recall that a similar application was first heard at the November 2020 Planning Committee (20/00288/FUL - demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping) where it was refused for the following reason:
- 'The proposed development by reason of its design, scale, and massing, gives rise to an unacceptably cramped and over-developed layout, leading to an overbearing relationship with the adjacent properties and the local street scene, contrary to the established character, and local distinctiveness of the local area. The proposal is contrary to para 127 (c) of the NPPF, Policy DM9 and DM10 of the Development Management Policies Document 2015 and CS5 of the Core Strategy 2007'.
- 2.2 The Planning Inspector dismissed the subsequent appeal, upholding Members concerns regarding scale, overdevelopment, and overbearing relationship with the adjacent buildings.

- 2.3 The application before Members seeks to address the concerns raised by Members and the Planning Inspectorate against the previously application.
- 2.4 Officers are recommending refusal of the application. Although the Officers recommendation on the previous scheme was to grant, there are material differences to this current scheme in terms of scale, massing and design. Furthermore, the Inspectors decision is an important material consideration in the assessment of this application.
- 2.5 The application was due to be determined by Members at the March 2022 Planning Committee. However, the applicant has since appealed this application on the basis of non-determination. Members are therefore not determining this planning application but considering whether they would have refused the proposal (for the reasons set out below or other reasons) or if they would have approved the proposal. Officers will then inform the Planning inspectorate of the decision the Council would have made if the applicant had not appealed.

3 Summary

- 3.1 The application is classified as a major planning application and is referred to Planning Committee in accordance with Epsom and Ewell Borough Council's Scheme of Delegation.
- 3.2 The application seeks planning permission for the demolition of the existing 2 no. two storey dwellings and the construction of construction of 2 no. 2-4 storey residential blocks accommodating 20 residential units.
- 3.3 The site is located within a sustainable location that is in close proximity to public transport, which offers a mode of transport other than the private car. The site is therefore in a suitable location in sustainable transport terms for new residential uses.
- 3.1 The proposal would not be compliant with the Council's Housing Density and Building heights policies. However, in May 2018, the Licensing and Planning Policy Committee took a decision to afford less weight to these policies in the light of the then newly published NPPF, as they were considered to restrict opportunities for growth in the Borough. It should be noted that these polices remain part of the statutory Local Development Framework, and therefore continue to be the starting point for assessing this planning application. They are however, afforded limited weight in the decision-making process and having regard to the current presumption in favour of sustainable development.

- 3.2 Although the proposed development would not be compliant with the Council's Housing Mix policies as a result of an over provision of smaller units, on the basis of the requirement to make effective and efficient use of the site, it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.
- 3.3 It has demonstrated, by way of a Financial Viability Assessment, that the proposed scheme is unable to viably provide a policy compliant provision of 8 affordable units, corresponding to 40% provision of affordable housing. However, the proposed scheme would provide two on-site affordable units as shared ownership, which would be the equivalent of 10% affordable housing, which would meet the expectations of Paragraph 65 of the NPPF (2021).
- 3.4 Notwithstanding this, there is no appropriate mechanism to secure the affordable housing on site.
- 3.5 Although the proposed development would result in an increase in traffic generation, this would not cause harm to highway safety or to the operation of the highway network.
- 3.6 The proposal would accord with the Council's policies in relation to ecology, trees, flood risk, surface flooding and land contamination.
- 3.7 There is a minimal shortfall in meeting the Council's Parking Standards by 0.5 vehicle parking spaces.
- 3.8 As a result of its overall scale and design, the proposed development would represent an overdevelopment of the site and cause significant visual harm to the character and appearance of the area.
- 3.9 The proposed development would not meet the minimum space standards for residential accommodation and would not provide adequate outdoor private amenity space failing to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers.
- 3.10 The proposed development would cause significant harm to the private amenities of the occupiers of surrounding properties by way of off loss of light, loss of outlook and loss of privacy.
- 3.11 The Council currently does not have a 5 year housing land supply. This means that the "presumption in favour of sustainable development" (paragraph 11 of the NPPF) (Also known colloquially as the 'tilted balance') is engaged, and that planning permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the NPPF 2021 as a whole.

- 3.12 Overall, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The application is therefore recommended for refusal

The application would have been recommended for REFUSAL

4 Site description

- 4.1 The application site comprises the curtilage of 2 no. residential dwellings, 140 and 142 Ruxley Lane. The site has a total area of 0.19 hectares.
- 4.2 The existing residential buildings are detached and two-storey in scale, set well back within the plots, providing generous front curtilages facing the highway.
- 4.3 Although the land surrounding the site is predominantly residential, there are a mix of uses within the locale, with a supermarket to the north east of the site and High School located opposite the site, beyond the adjacent highway.

5 Proposal

- 5.1 The proposed development involves the demolition of the existing two storey residential dwellings and the erection of 2. no block of residential units, ranging between two and a half stories to four stories. One block would front Ruxley Lane, whilst the other would be set to the rear of the site. There would be hard surfacing for vehicle parking, a communal garden area and landscaping inventing between the two blocks.
- 5.2 The block fronting onto Ruxley Lane would measure 23 metres in width, 20 metres in depth and would have an overall height of 11.6 metres. The accommodation would be set out over four floors and would comprise 2 no. one bedroom units, 9 no. two bedroom units and 3 no. three bedroom units.
- 5.3 The block sited to the rear would measure 19 metres in width, 10 metres in depth and would have an overall height of 10.2 metres. The accommodation would be set out over three floors and would comprise 2 no. one bedroom units, 2 no. two bedroom units and 2 no. three bedroom units.
- 5.4 The existing access to the site would be stopped up and a new Bellmouth access would be provided to serve the site. Vehicle parking would be provided to the frontage of Ruxley Lane (8 spaces) and within the centre of the site parking is provided for 14 vehicles.

6 Comments from third parties

6.1 The application was advertised by means of a site notice and letters of notification to 40 neighbouring properties. Eight letters of objection had been received and the issues raised are summarised as follows:

- Noise from additional people and vehicles within the site
- Creation of air pollution
- Overlooking gardens of nearby residential properties
- Loss of light to nearby residential properties
- Traffic increase during school rush hour
- Negative impact on property value
- Loss of vegetation
- Loss of a view/outlook
- Disruption during construction
- Filter lane to the school will prevent traffic from turning right into the new development
- Will set a precedent for overdevelopment in the area
- Out of character with existing area

6.2 The comments material to the planning merits of this proposal are addressed within the contents of this report.

7 Consultations

7.1 **Surrey County Council Highways:** No objections subject to imposition of condition.

7.2 **Lead Local Flood Authority (SuDS):** No objections, subject to imposition of conditions.

7.3 **Surrey County Council Archaeology:** No archaeological concerns

7.4 **Contaminated land Officer:** No objections, subject to imposition of conditions

7.5 **Design and Conservation Officer:** Objection on design grounds

7.6 **Waste Services Manager:** No objection

8 Relevant planning history

Application No	Application detail	Decision
20/00288/FUL	Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping	Refused 23/11/2020

9 Planning Constraints

Built Up Area
SSSI Impact Zones

10 Planning Policy

National Policy Planning Framework NPPF 2021

Chapter 2 – Achieving Sustainable Development
Chapter 5 – Delivering a sufficient supply of homes
Chapter 6 – Building a strong, competitive economy
Chapter 7 – Ensuring the vitality of town centres
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well design places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

Core Strategy 2007

Policy CS1 - General Policy
Policy CS3 - Biodiversity
Policy CS5 - The Built Environment
Policy CS6 - Sustainability in New Developments
Policy CS7 - Housing Need
Policy CS8 - Housing Delivery
Policy CS9 - Affordable Housing
Policy CS12 - Infrastructure
Policy CS16 - Managing Transport and Travel

Development Management Policies 2015

Policy DM4 - Biodiversity and New Development
Policy DM5 - Trees and Landscape
Policy DM9 - Townscape Character and Local Distinctiveness
Policy DM10 - Design Requirements for New Developments
Policy DM11 - Housing Density
Policy DM12 - Housing Standards
Policy DM13 - Building Heights
Policy DM17 - Land Contamination
Policy DM19 - Development & Flood Risk
Policy DM21 - Meeting Local Housing Needs
Policy DM22 - Housing Mix
Policy DM34 - New Social Infrastructure
Policy DM35 - Transport and New Development
Policy DM36 - Sustainable Transport for New Development
Policy DM37 - Parking Standards

Other Material Documents

- Making the Efficient Use of Land – Optimising Housing Delivery (2018)
- Strategic Housing Market Assessment Update (2019)
- Single Plot and other types of Residential Infill Development SPG (2003)
- Technical Housing Standards – Nationally Described Space Standards (2015)
- Parking Standards for Residential Development SPD (2015)
- Surrey County Council Vehicular and Cycle Parking Guidance (2018)
- Revised Sustainable Design SPD (2016)

11 Planning considerations

11.1 The main planning considerations material to the determination of this application are:

- Presumption in Favour of Sustainable Development
- Housing Need
- Principle of Development
- Housing Density
- Housing Mix
- Affordable Housing
- Design and Visual Impact
- Impact upon Neighbouring Residential Amenity
- Quality of Accommodation
- Proposed Amenity Space
- Highways, Parking and Cycle Parking

- Refuse and Recycling Facilities
- Trees and Landscaping
- Biodiversity and Ecology
- Sustainability
- Flood Risk and Surface Water Drainage
- Land Contamination
- Community Infrastructure Levy (CIL)

12 Presumption in Favour of Sustainable Development

- 12.1 The National Planning Policy Framework 2021 (NPPF 2021) sets out the Government's planning policies for England and how they should be applied. It sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 12.2 Paragraph 12 of the NPPF 2021 stipulates that development proposals which accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted.
- 12.3 Policy CS7 of the Core Strategy 2007 is considered out of date under the terms of the NPPF 2021. The housing target of 188 dwellings per annum was taken from the South East Plan. The South East Plan was revoked in 2012, with housing requirements then to be determined by local need.
- 12.4 The Epsom & Ewell Core Strategy pre-dates the NPPF 2021 and in accordance with paragraph 219 of the NPPF 2021, the policies of the Core Strategy 2007 should be given due weight according to their degree of consistency with the NPPF 2021, In the case of old housing targets within CS7 of the Core Strategy (2007), no weight should be given to it.
- 12.5 The standard method for calculating the Borough's assessed housing need identifies a housing requirement of 579 new homes each year. In the absence of a five year housing land supply, this increases to 695 under the housing delivery test, published 13 February 2020. Epsom & Ewell Borough Council is presently falling significantly short of this requirement and cannot presently demonstrate five years housing land supply.

- 12.6 Paragraph 11d of the NPPF 2021 is engaged via Footnote 8 for applications involving the provision of housing where Local Planning Authorities cannot demonstrate a five year supply of deliverable housing sites. The practical application and consequence of this is that unless the site is located in an area or affects an asset of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF 2021 as a whole.
- 12.7 The site is located within a built up area and does not affect assets of particular importance such as SSSI, AONB, European or National Ecological Designations, Green Belt or any other given additional weight by the NPPF (2019). When considering the principle of development, the presumption in favour of sustainable development is fundamental in this case.

13 Housing Need

- 13.1 Paragraph 60 of the NPPF 2021 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 13.2 Paragraph 69 of the NPPF 2021 states [inter alia] that small and medium sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
- 13.3 Policy CS7 of the Core Strategy 2007 states that the Council will seek to ensure sufficient housing is provided to meet the Borough's housing requirement. The Council's annual housing target has increased significantly since the adoption of the Core Strategy and Epsom and Ewell Borough Council currently has an annual housing target of 695 new residential dwellings per year under the Housing Delivery Test as published on 13 February 2020.
- 13.4 Meeting the increased annual housing target is challenging. The Borough is constrained by its significant areas of designated strategic open spaces or Green Belt. In addition, the quality of its existing built-up areas is generally high. Consequently, the supply of available development sites is limited. As a result, it is important that available sites are optimised for housing delivery but without compromising the quality of the built environment.

- 13.5 The Council has previously determined the best solution to address the constraint of land availability in the Borough and the pressing need to address a substantial deficit in its housing land supply at the 8 May Licensing and Planning Policy Committee by passing the approval of the policy document entitled 'Making the Efficient Use of Land – Optimising Housing Delivery' 2018 as a material consideration in the determination of planning applications.
- 13.6 This document highlights the Council's acknowledgement that the significant housing need, housing land supply shortfall results in the need to optimise previously developed land within the town centre to accord with the guidance of the NPPF to maintain a deliverable supply of housing land to meet local housing needs and to make effective use of previously developed (brownfield) land pursuant to this aim. This is an imperative national and local material consideration.
- 13.7 Accordingly, and in accordance with the 'Making the Efficient Use of Land – Optimising Housing Delivery' May 2018 document the Borough Council has agreed that sites considered available, deliverable, and developable, such as the application site, should be 'fully optimised to positively respond to our objectively assessed housing need'. The document identifies that this may require developing to a higher density and building height than policy currently permits or has previously been considered acceptable. The document also identifies that 'in order to reach a balanced decision, the Borough Council's Planning Committee may attribute greater weight towards the need to deliver new additional homes.' (paragraph 3.3) in decision making.
- 13.8 Therefore, it is imperative that optimal use of the application site is made to assist the Borough with aiming towards meeting its local housing needs and any conflict with existing historic policy approaches to density should be given limited weight and greater weight should be given to the need to deliver homes to meet the local housing need, the significant five year land supply shortfall and the desire to preserve the Green Belt.

14 Principle of Development

- 14.1 Paragraph 59 of the NPPF 2021 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

- 14.2 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.
- 14.3 Paragraph 122 of the NPPF 2021 states that planning policies and decisions should support development that makes sufficient use of land taking into account: (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens) or of promoting regeneration and change.
- 14.4 Given the significant housing need within the Borough, it is considered that the redevelopment of this site at a higher density creating additional residential units within a sustainable location is acceptable in principle, subject to the below other material planning considerations.

15 Housing Density

- 15.1 Paragraph 60 of the NPPF 2021 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 15.2 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.
- 15.3 Paragraph 125 of the NPPF 2021 highlights that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.
- 15.4 Policy DM11 of the Development Management Policies Document 2015 states [inter alia] that in principle, proposals for new housing that make the most efficient use of sites within the boroughs urban area will be supported in principle.

- 15.5 The proposed housing density per hectare of the site is 105 units. Policy DM11 of the Development Management Policies Document 2015 further states [inter alia] that site density should not usually exceed 40 units per hectare however, exceptions to this approach are considered where the following can be demonstrated:
- the site enjoys good access to services, facilities and amenities via existing public transport, walking and cycling networks; and
 - The surrounding townscape has sufficient capacity to accommodate developments of higher density.
- 15.6 The site is in a sustainable location with excellent access to facilities and transport as set out below:
- The site is within 400 metres from a bus stop that provides regular and frequent access to the main Town Centre, local railway stations and main hospital
 - A network of secure cycle and walking routes can be found throughout the area
 - The site has good walking access to local facilities such as supermarkets, schools, pharmacy, post office and places of working within, all within a 1k walk (between 10-15 minutes)
- 15.7 Furthermore, at Planning and Licencing Committee in May 2018 it was agreed that given the borough's objectively assessed housing need of 697 units, it is important to improve the optimisation of housing delivery for development sites in the borough. It states within the report that the optimisation of development sites 'may result in development that exceeds the density and / or height parameters of Policy DM11, Policy DM13 and Plan E Policy E7'. The purpose of this committee was to reduce the weight given to these policies during decision making and as such, the weight afforded to these policies is not significant enough to warrant the refusal of a planning application on the basis that the proposed housing density is not policy compliant.
- 15.8 Given the sustainability of the location and that the review into Council policies relating to height and density has reduced their weight in decision making, it is considered that the density of the proposal would be acceptable.

16 Housing Mix

16.1 Paragraph 124 of the NPPF 2021 states that planning policies and decisions should support development that makes efficient use of land, taking into account the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.

16.2 Policy DM22 of the Development Management Policies Document 2015 states [inter alia] that the Council require all residential development proposals for four or more units be comprised of a minimum of 25% 3+ bedroom units, unless it can be demonstrated that the mix would be inappropriate for the location or endanger the viability of the proposal.

16.3 Chapter 3 of the Council's Strategic Housing Market Assessment Update 2019 recommends that the breakdown of dwellings by size should be: 10% for 1 bedroom units, 50% for 2 bedroom units, 30% for 3 bedroom units and 10% for 4 bedroom units.

1 Bed	2 Bed	3 Bed	4 + Bed
10%	50%	30%	10%

16.4 The application proposes the following mix on the site:

1 Bed	2 Bed	3 Bed	4 + Bed
4 (20%)	11 (55%)	5 (25%)	0 (0%)

16.5 Although the proposed development involves a much higher proportion of smaller units than encouraged with the Council's Strategic Housing Market Assessment Update 2019, Officers consider that the provision of a higher percentage of smaller units within a sustainable location could be considered appropriate, as it would result in a more efficient use of land.

16.6 Whilst the proposed mix is not compliant with Policy DM22 of the Development Management Policies Document 2015, the proposed development must also be considered against the high demand for smaller units and the requirement to make effective and efficient use of land and the site. On this basis, it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.

16.7 Furthermore, the Planning Inspector did not raise concern against the higher number of smaller units proposed under the previous appeal scheme (20/00288/FUL). The housing mix is therefore assigned minor negative weight in the planning balance.

17 Affordable Housing

- 17.1 Paragraph 63 of the NPPF 2021 states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - b) the agreed approach contributes to the objective of creating mixed and balanced communities.
- 17.2 Paragraph 65 of the NPPF 2021 states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.
- 17.3 Policy CS9 of the Core Strategy 2007 states that the Council has a target that overall, 35% of new dwelling should be affordable. Residential development of 15 or more dwellings gross (or on sites of 0.5ha or above) should include at least 40% of dwellings as affordable.
- 17.4 Therefore, to be fully compliant with Policy CS9 of the Core Strategy 2007, the proposal development would be required to provide 8 on site affordable units.
- 17.5 Paragraph 58 of the NPPF 2021 states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 17.6 Paragraph 3.12.11 of the Core Strategy 2007 states that where there are specific and overriding site constraints, or where development-specific issues inhibit the provision of affordable housing, off site provision or financial contributions may be acceptable.

- 17.7 A Financial Viability Appraisal, prepared by S106 Management, dated 13/09/2021 has been submitted in support of this application by the applicant. The Financial Viability Appraisal concludes that the offer of 10% (2 units) affordable units is the maximum that the site can viably provide.
- 17.8 The Viability Appraisal has been independently scrutinised by Viability Consultants BPC, on behalf of the Local Planning Authority. The provision of the provision of 10% affordable housing as part of the scheme has been tested by the Council's Viability Consultants, who have agreed that with the findings of the Financial Viability Appraisal, that the site can viably provide a maximum of two affordable units at the site
- 17.9 The applicants have advised that these units would be affordable rented via the shared ownership scheme, which would be the situation as per the agreed unilateral undertaking secured under the previous application 20/00288/FUL.
- 17.10 This would therefore meet the requirement of paragraph 64 of the NPPF 2021, which expects at least 10% of units in major development to be affordable.
- 17.11 However, the absence of an appropriate mechanism to secure the affordable housing on site contribution would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.

18 Design and Visual Impact

- 18.1 The NPPF 2021 attaches great importance to the design of the built environment. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities
- 18.2 Paragraph 130 of the NPPF 2021 states [inter alia] that developments should function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history.
- 18.3 Paragraph 135 of the NPPF 2021 states that that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- 18.4 Paragraph 3.7.5 of the Core Strategy 2007 sets out that new development should enhance and complement local character and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm, and which positively contributes to the townscape.
- 18.5 Policy DM10 of the Development Management Policies Document 2015 states [inter alia] that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:
- Prevailing development typology, including house type, sizes, and occupancy;
 - Prevailing density of the surrounding area;
 - Scale, layout, height, form, massing;
 - Plot width and format which includes spaces between buildings;
 - Building line build up, set back, and front boundary; and
 - Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.
- 18.6 Policy DM13 of the Development Management Policies Document (2015) states [inter alia] that buildings higher than 12 metres will be inappropriate in all areas of the Borough except the identified areas within the Epsom Town Centre Boundary where buildings up to a maximum height of 16 metres will be allowed in certain locations.
- 18.7 However, as set out in this report, in May 2018, the Licensing and Planning Policy Committee took a decision to set aside Policy DM11 and Policy DM13 of the Development Management Policies Document 2015. This was based on the aforementioned policies restricting opportunities for growth in the Borough. It should be noted that these policies remain part of the development plan, however they are afforded limited weight in the decision-making process and have regard to the presumption of sustainable development.
- 18.8 The site lies in Character Area 10 as defined in the Epsom and Ewell Borough Council Character Study 2008. The study identifies the predominate built form of this character area to be two storey, semi-detached development from the 1930's and 1950's -1970's, together with occasional blocks of flats, terraces and detached properties.

- 18.9 To the north east of the site is a corner plot that accommodates a three storey flatted development (Willow Court) which has frontages to both Ruxley Lane and Cox Lane. Adjacent to Willow Court on Cox Lane frontage are a row of three storey town houses, beyond which is a more densely built up suburban area of predominantly two storey development.
- 18.10 In comparison, the buildings adjacent to Willow Court on the Ruxley Lane frontage are two storey and to accommodate for this, Willow Lodge steps down from three storey to two storey adjacent to this built form.
- 18.11 The site has a generous, deep open frontages are verdant in character, with the existing associated built form set well back from the highway. The proposed development would replace the existing two storey dwelling and bungalow with a four storey block fronting Ruxley Lane, with a further two storey block of flats set behind, hard up against the rear boundary, which abuts a garage court serving Larkspur Way.
- 18.12 Vehicular access to the site is via Ruxley Lane and to accommodate the Council's parking standard on the site, a significant amount of hard standing is proposed on site, intervening the two proposed blocks of residential units.
- 18.13 In considering the appeal under 20/00288/FUL, the Inspector noted that the scale of the development was the crux of the matter for consideration, as there was no objection from either the Council or the Inspectorate in principle to residential development on this site, or indeed to a flatted development.
- 18.14 When considering the issue of scale, the Inspector paid special attention to eaves height of the southern (front) block of flats in comparison to adjacent Willow Court and 144 Ruxley Lane, noting that 'the proposed development would give rise to an overbearing relationship with both adjacent buildings on Ruxley Lane, significantly so in respect of no. 144; and which would be harmful to the character and appearance of the street scene' (paragraph 10 Appeal ref: APP/P3610/W/20/3263842).
- 18.15 The Inspector also gave consideration to the cumulative effect of the two blocks of flats within the site, stating that 'the combination of the two storey block to the rear and the intervening hard surfacing..... the site would appear over developed and would be in conflict with the.... suburban pattern of development'. (Paragraph 8 Appeal ref: APP/P3610/W/20/3263842).

- 18.16 The current application has sought to address the concerns raised by the Inspector by introducing a series of setbacks and varying roof heights to the front block, thereby attempting a more natural transition between the adjacent buildings and by reducing the intervening hard surfacing on the site.
- 18.17 Whilst Officers generally welcome a reduction in height of the front block in comparison to the scheme refused under 20/00288/FUL, the overall height of proposed front block only represents a minimal 1.3 metre reduction, reducing from 12.8 metres to 11.5 metres.
- 18.18 Furthermore, the scheme under 20/00288/FUL previously attempted a transition between the two storey height of 144 Ruxley Lane and the four storey height of the front block by introducing a two storey element to the boundary of this neighbouring property. Although the current scheme retains this transitional element, its height has increased by 2.6 metres in order to provide accommodation in the hipped roof. However, a visual gap between the two storey flank elevation of 144 Ruxley Lane and the front block has been increased from 4.2 metres to 7.9 metres.
- 18.19 Whilst the retention of the transitional element with an extended visual gap to the built form of 144 is welcomed, the increase in the gap is not significant and the combination of the increase in height from two storey to 2.5 storey and the abrupt increase from 2.5 stories to the predominant four storey scale of the front block only serves to diminish the contribution this transition plays as a visual relief between the two storey height of 144 Ruxley Lane and the four storey height of the front block. Under this current scheme, the front block would give rise to a significant overbearing relationship with 144 Ruxley Lane, which would be harmful to the character and appearance of the street scene.
- 18.20 It is noted that the height of the front block would remain lower than main ridge of Willow Court, although the hipped roof design would reduce some bulk in comparison to the scheme refused under 20/00288/FUL. However, the Inspector noted when concluding the appeal that 'the front block of flats would have an eaves height far greater than the two storey element of Willow Court which runs counter to its existing reduction in hierarchy and form' (Paragraph 7 Appeal ref: APP/P3610/W/20/3263842). The eaves height of the current scheme would remain at a height far greater than the eaves of the two storey element of Willow Court and with only a minimal reduction in overall height, the front block would give rise to an overbearing relationship with Willow Court, which would be harmful to the character and appearance of the street scene.

- 18.21 Furthermore, the design of the front block has been contrived in an attempt to accommodate the Inspector concerns regarding the scale of the built form, whilst seeking to maximise the units on site, which has resulted in the visual appearance of the front block as being unbalanced, with a myriad of varying roof forms, eaves dormer windows, roof dormer windows of differing styles and a variety of balconies which, in culmination, represents a poorly conceived and incohesive development that would fail to respond to the existing character and appearance of the area.
- 18.22 To address the Inspectors concerns in respect to the amount of intervening hard surfacing between the front and back block, the current scheme has reduced the footprint of the rear block by 77m², thereby decreasing the hard surfacing on site by this amount. However, this represents a very minimal reduction in hard surfacing on the site, with the land intervening the two blocks remaining hard surfaced at a level similar to that refused under the previously scheme.
- 18.23 Paragraph 127 (c) of the NPPF 2021 requires development to be sympathetic to the surrounding built environment. The overall scale of the proposed built form, in combination with the intervening hard surfacing, would represent an overdevelopment of the site that would conflict with the pattern of development in the locality and would give rise to an overbearing relationship with the adjacent buildings.
- 18.24 Furthermore, as a result of its overall design, the proposed development would fail to be visually attractive or a sympathetic addition to the street scene, causing harm to the character and appearance of the area.
- 18.25 In accordance with paragraph 134 of the NPPF 2021, the permission should be refused as it would be, contrary to paragraph 130 of the NPPF 2021, Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007, Policies DM9 and DM10 of the Epsom and Ewell Development Management Policies 2015, the Epsom and Ewell Borough Council Character Study and the Epsom and Ewell Single Plot and other types of Residential Infill Development SPG 2003.

19 Impact upon Neighbouring Residential Amenity

- 19.1 Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policy Document 2015 sets out that development proposals will be required to incorporate principles of good design. Development proposals should also have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance.

- 19.2 As a result of the overall height and form of the proposed development, it is key to consider the impact upon surrounding residents from the built form in terms of outlook, daylight/sun lighting and privacy.
- 19.3 The neighbouring properties most likely to have their amenities impacted upon by the proposed development are 144 Ruxley Lane, Willow Court and Larkspur Way.

144 Ruxley Way

- 19.4 144 Ruxley Lane is located to the south west of the site and the south west side elevation of the front block would be located 5.5 metre from the shared boundary, with 6.1 metres to be retained between the built form. Whilst the built form of the front block would extend beyond the rear elevation of 144 Ruxley Lane, these distances would prevent this block from having a harmful overbearing impact upon the occupiers of this neighbouring property.
- 19.5 As a result of its location to the south west of the proposed development, the occupiers of 144 Ruxley Lane would not suffer from any loss of light or loss of daylight impacts as a result of the proposed development.
- 19.6 In terms of overlooking, 144 Ruxley Lane features two high level windows at ground floor level and one window at first floor level in the north east side elevation of this property. The windows proposed on the south west side elevation of the front block would either be restricted to obscure views or would be orientated towards the front curtilage. Such levels of overlooking would not cause harm to the private amenities of the occupiers of this neighbouring property.
- 19.7 A third floor roof terrace is proposed on the front block. As a result of the orientation and proximity of this roof terrace to the private curtilage of 144 Ruxley Lane, future occupiers of the front block would achieve clear and direct views this neighbouring private amenity area, causing significant harm to the amenities of the occupiers of 144 Ruxley Lane. This situation would be exacerbated as the roof terrace would provide external floor area, which would provide opportunities for prolonged overlooking.
- 19.8 Whilst it is acknowledged that this direct overlooking could be mitigated by the use of suitable screening, any screening would be required to completely enclose the roof terrace, leading to an oppressive environment and unsatisfactory living conditions for the future occupants as a result of the restricted amenity space.

- 19.9 Although there are balconies proposed at first and second floor level on the north west rear elevation of the front block, the views achieved from these balconies would be at an angle and could be mitigated by screening to the side, leaving the front of the balcony open.

Willow Court

- 19.10 The front block would be located 0.7 metres from the boundary shared with Willow Court and there would be a 3.0 metre distance between the two built forms.
- 19.11 The south west side elevation of Willow Court contains windows at first floor level serving primary accommodation (a bedroom and a kitchen). The north east side elevation of the front block would extend to four stories on this shared boundary and would be within close proximity to these windows, restricting daylight and sunlight to the primary accommodation as well as providing a poor outlook.
- 19.12 This would give rise to the occupiers experiencing a strong sense of enclosure and would create dark and gloomy primary living accommodation that, combined with the poor outlook, would result in an overly oppressive environment for the occupiers of these affected flats.
- 19.13 The south west elevation of the front block would also directly face a roof terrace associated with Willow Court. The front block contains unrestricted windows at third floor level on the north east side elevation that would provide clear and direct views of this roof terrace, causing detrimental harm to the private amenities of the occupiers of this neighbouring property.

126 Larkspur Way

- 19.14 It is considered that this neighbouring property is located at a sufficient distance from the proposed development to prevent any issues of loss of light, loss of outlook or any overbearing impacts.
- 19.15 The rear block contains windows in the rear elevation at first floor level that could provide for clear and direct views of the curtilage associated with 126 Larkspur Lane if left unrestricted. Given that these windows are either secondary windows serving a room or serve secondary accommodation, in the event permission is granted, it would be reasonable to recommend that these windows are obscurely glazed and top opening only, in order to protect the amenities of the occupiers of this neighbouring property in the future.

1 Alpine Close

19.16 Although the rear block would have a greater presence upon the occupiers of 1 Alpine Close in comparison to the existing situation, given the orientation between the rear block and this neighbouring property, with the rear block set forward of the primary elevation of this neighbouring property, Officers are satisfied that the proposal would not cause any issues of loss of light, loss of outlook, loss of privacy or be overbearing in nature.

General Amenity

19.17 In terms of general amenity, whilst the proposed development is likely to generate a greater level of domestic noise through pedestrians arriving and leaving the site than the current situation, this level would not be to an extent that would be incongruous within the surrounding residential context.

19.18 The construction phase of the development has the potential to cause disruption and inconvenience to nearby occupiers and users of the local highway network. However, these issues are transient and could be minimised through the requirements of planning conditions if permission were to be granted.

19.19 In light of the above, the proposal would cause material harm to the private amenities of surrounding properties by way of loss of light, loss of outlook and loss of privacy, contrary to Policy DM10 of the Development Management Policy Document 2015 and the guidance set out in the Council's Residential Infill Development SPG 2003.

20 Quality of Accommodation

20.1 Policy DM12 of the Development Management Policies Document 2015 states that all new housing developments, including conversions, are required to comply with external and internal space standards.

20.2 The Nationally Described Space Standards (2015) sets out internal space standards for new dwellings at a defined level of occupancy. It further states that in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m² and in order to provide two bed spaces, a double (or twin bedroom) has a floor area of at least 11.5m².

20.3 The application is proposing 25 units, comprising 21 no. two-bed flats, 2 no. one-bed flats and 2 no. three-bed flats.

20.4 Using the plans submitted, the following table provides an analysis of the internal floor area against technical standards:

Flat Number (bed/person)	National Standard	Proposed Internal Area	Meets Standards
Flat 1 (1b/2p)	50m ²	58m ²	✓
Flat 2 (3b/5p)	86m ²	73m ²	x
Flat 3 (2b/3p)	61m ²	63m ²	✓
Flat 4 (2b/3p)	61m ²	67m ²	✓
Flat 5 (3b/4p)	74m ²	72m ²	x
Flat 6 (3b/5p)	86m ²	73m ²	x
Flat 7 (2b/3p)	61m ²	63m ²	✓
Flat 8 (2b/3p)	61m ²	63m ²	✓
Flat 9 (2b/3p)	61m ²	68m ²	✓
Flat 10 (2b/4p)	70m ²	65m ²	x
Flat 11 (2b/3p)	61m ²	64m ²	✓
Flat 12 (2b/3p)	61m ²	63m ²	✓
Flat 13 (1b/2p)	50m ²	52m ²	✓
Flat 14 (2b/4p)	70m ²	76m ²	✓
Flat 15 (3b/5p)	86m ²	74m ²	x
Flat 16 (2b/3p)	61m ²	57m ²	x
Flat 17 (3b/5p)	86m ²	81m ²	x
Flat 18 (2b/3p)	61m ²	57m ²	x
Flat 19 (1b/2p)	50m ²	45m ²	x
Flat 20 (1b/2p)	50m ²	46m ²	x

20.5 The above table demonstrates that half of the proposed residential units would fail to meet the technical housing standards and would therefore provide a substandard quality of living accommodation for future residents.

20.6 It is noted that the bedroom in Flat 1 would be served by a restricted window, which would be obscurely glazed and top opening only. Such a restriction on the only window serving primary accommodation would severely impede the outlook from this window, giving rise to a strong sense of enclosure and overly oppressive environment for the future occupants.

20.7 Similarly, the bedrooms in Flats 10, 19 and 20 would all be served by rooflights. Whilst these openings would allow light and air to circulate these primary rooms, they would severely restrict outlook for the occupants as a result of their orientation within the roof slope.

- 20.8 It is therefore considered that the proposal would create substandard residential units that would provide unsatisfactory living conditions for future occupiers due to inadequate internal floor area, daylight, sunlight and outlook provisions, contrary to Policy DM12 of the Development Management Policies Document (2015) and the Nationally Described Space Standards (2015)

21 Proposed Amenity Space

- 21.1 Paragraph 130 of the NPPF 2021 states that planning decision should ensure that developments (inter alia) create places that are accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 21.2 Policy DM12 of the Development Management Policies Document 2015 states that all new housing developments that provide adequate internal space and appropriate external private and/or communal amenity space to meet the needs generated by the development.
- 21.3 Paragraph 3.36 of the supporting text for Policy DM12 of the Development Management Policies Document 2015 states that to provide adequate private amenity space for development of flats, a minimum of 5m² of private amenity space for 1-2 person dwellings should be provided and an extra 1 m² should be provided for each additional occupant. A 3 person flat should have a 6m² balcony, and a 4 person flat should have a 7m² balcony.
- 21.4 The residential units in the front block are all served by balconies as follows:

Flat Number (bed/person)	Policy Minimum	Proposed Amenity Area	Meets Standards
Flat 1 (1b/2p)	5m ²	6.2m ²	✓
Flat 2 (3b/5p)	7m ²	6.5m ²	x
Flat 3 (2b/3p)	6m ²	5.9m ²	x
Flat 4 (2b/3p)	6m ²	4.9m ²	x
Flat 5 (3b/4p)	7m ²	5.8m ²	x
Flat 6 (3b/5p)	7m ²	5.0m ²	x
Flat 7 (2b/3p)	6m ²	4.4m ²	x
Flat 8 (2b/3p)	6m ²	4.3m ²	x
Flat 9 (2b/3p)	6m ²	5.7m ²	x
Flat 10 (2b/4p)	7m ²	5.0m ²	x
Flat 11 (2b/3p)	6m ²	4.1m ²	x
Flat 12 (2b/3p)	6m ²	4.2m ²	x
Flat 15 (3b/5p)	7m ²	13.4m ²	✓
Flat 16 (2b/3p)	6m ²	17.5m ²	✓

- 21.5 The table above demonstrates that only three of the proposed residential units (Flat 1, Flat 16 and Flat 17) meet or exceed the minimum requirement. The balconies provided to the remainder of the residential units all fail to meet the minimum policy requirements.
- 21.6 Paragraph 3.36 of the supporting text for Policy DM12 of the Development Management Policies Document (2015) advises that where appropriate in terms of visual character and appearance, flats at upper levels may have a private useable balcony area, in addition to having access to communal open space.
- 21.7 It should be noted that the wording of this policy does not negate the need for future occupiers to be provided with good quality, private amenity space. Communal amenity space is to supplement private amenity space and should not be considered as an alternative to providing future occupiers of residential units with well-designed and adequate private amenity space within the site.
- 21.8 It is noted that approximately 282m² of communal amenity space is proposed to serve those flats that do not have the benefit of any private balcony space. Whilst it is acknowledged that this is a high level of provision, it would be shared by a number of future residents and would not be private. The future occupiers of these units would not have the benefit of any private amenity area to carry out normal domestic functions, such as drying clothes.
- 21.9 Furthermore, the communal amenity spaces proposed would be highly overlooked by the occupiers of the blocks of flats and surrounding residential properties. In some cases, the communal open space would be overlooked by balconies, which would provide opportunities for prolonged overlooking, making the area less attractive for the purposes of informal recreation.
- 21.10 The proposal would fail to provide adequate private amenity space to serve the future occupiers of the development thereby providing unsatisfactory living conditions for future occupiers, contrary to paragraph 130 of the NPPF 2021 and Policy DM12 of the Development Management Policies Document 2015.

22 Highways, Parking and Cycle Parking

- 22.1 Paragraph 111 of the NPPF 2021 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 22.2 Policy CS16 (Managing Transport and Travel) of the Core Strategy 2007 encourages development proposals that foster an improved and integrated transport network and facilitate a shift of emphasis to non-car modes as a means of access to services and facilities.
- 22.3 This policy further emphasises that development proposals should provide safe, convenient, and attractive accesses for all, including the elderly, disabled, and others with restricted mobility and be appropriate for the highways network in terms of the volume and nature of traffic generated, provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements.
- 22.4 Furthermore, this policy stipulates that development proposals must ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, not materially increase other traffic problems.
- 22.5 The application is accompanied by a Transport Statement, prepared by Lanmor Consulting, reference 202149/TS/JR/RS/03.
- 22.6 The existing highway network surrounding the site comprises Ruxley Lane, which is a single carriage way residential street subject to a 30 mph speed limited and benefits from street lighting and footpaths.
- 22.7 There are a number of public footpaths within the vicinity of the site which provide a pedestrian network to the surrounding major and minor roads. Again, these benefit from street lighting, with the majority actively overlooked by residential development. There are no identified cycle routes within the vicinity.
- 22.8 Although the Transport Statement has not provided an analysis of the Personal Injury Accident data for the most recent five year period available for the highway network in the vicinity of the site, it has not identified any significant existing problems with the layout of the highway network itself that would be affected by traffic from the proposed development.
- 22.9 In order to predict the traffic generation and flow associated with the proposed development, the Transport Statement advises that TRICS (Trip Rate Information Computer System) database has been used, using sites that are similar in characteristics with the proposed development. The TRICS database estimates a daily total of 66 vehicles trips would be associated with the proposed development.

- 22.10 The Transport Statement has considered the impact of this additional traffic generation on the local transport network, giving particular attention to the traffic pattern flows generated by Epsom and Ewell High School, the main access to which is directly opposite the site and is served by a dedicated right turn lane.
- 22.11 Using junction capacity software, the Transport Statement has concluded that the traffic generation created by the proposed development would function within capacity in culmination with the flow of traffic entering and exiting the school at peak times.
- 22.12 The County Highway Authority is satisfied that the TRICS Assessment and the junction capacity assessment undertaken and reported within the Transport Statement provides a robust and realistic assessment of the likely impact of the proposed development on the highway network and that the residual cumulative impacts of the development would not have a material impact on the capacity of the surrounding network.
- 22.13 The proposal involves closing the existing access point onto Ruxley Lane and creating a new access further south to the site. The new access arrangement would be in the form of a bellmouth., with visibility splays appropriate for the 30mph speed limit on Ruxley Lane. Tactile paving is proposed across the entrance.
- 22.14 The County Highway Authority have assessed the detailed design of the proposed vehicle access and internal road network and have confirmed that sufficient space would be provided within the site for vehicles to park and for vehicles to turn, in order for them to enter and leave in forward gear.
- 22.15 The County Highway Authority have raised no objection against the proposal in terms of impact on the operation of the network or highway safety, subject to conditions, in the event permission is granted, to secure a Construction Transport Management Plan and to ensure that the proposed access, visibility splays and parking are constructed in accordance with any approved plans.
- 22.16 Policy DM37 of the Development Management Policies Document 2015 seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.

- 22.17 The Council's Parking Standards for Residential Development SPD 2015 requirements for car parking provision within residential developments are a minimum of 1.0 vehicle space for one and two bed flat units and 1.5 spaces for three bed flats. The scheme would therefore be required to provide 22.5 vehicle parking spaces within the site in order to be policy compliant.
- 22.18 The proposed development would provide 22 vehicle parking spaces, which is a shortfall of 0.5 of a vehicle parking space. However, given that the site is located within a sustainable location with walking access to amenities and a choice of transport modes, this shortfall would represent minor adverse material consideration to weigh in the planning balance against other considerations for this application.
- 22.19 The proposed development would provide cycling facilities for the secure storage of 20 cycles, which would accord with the Council's Policy on cycle parking. In the event permission is granted, it is recommended that these facilities are provided prior to the occupation of the proposed development.

23 Refuse and Recycling Facilities

- 23.1 Policy CS6 (Sustainability in New Developments) of the Core Strategy (2007) sets out [inter alia] that proposals for development should result in a sustainable environment and to conserve natural resources, waste should be minimised and recycling encouraged. Development should incorporate waste management processes.
- 23.2 Annex 2 of the Council's Revised Sustainable Design SPD (2016) sets out the refuse and recycling requirements for flatted development. It states [inter alia] that storage areas for communal wheeled bins and recycling needs to allow sufficient room for both refuse and recycling containers to be stored and manoeuvred and be within 6 metres of the public highway. It further states that if more than four 240 litre bins are to be emptied, then the collection vehicle should be able to enter the development to avoid the risk of obstructing traffic.
- 23.3 The site would provide external storage for:
- 2 x 1100 litre refuse bin
 - 5 x 1100 litre mixed recycling bin
 - 1 x 1100 litre glass bin
 - 1 x 600 litre food waste bin

- 23.4 It has been demonstrated within the Transport Statement by Swept Path Assessment that a refuse/recycle vehicle can enter the site, turn and exit the site in a forward gear, even in the event that the vehicle parking spaces within the site are occupied. The Swept Path Assessment has been reviewed by the County Highway Authority and raised no concerns.
- 23.5 Having reviewed the refuse/recycling arrangements proposed, the Council's Transport and Waste Services Manager considers them to be acceptable in terms of capacity, storage and access.
- 23.6 As such, Officers are satisfied that the proposed development would meet Policy CS6 (Sustainability in New Developments) of the Core Strategy (2007) and the requirements of Annex 2 of the Council's Revised Sustainable Design SPD (2016).

24 Trees and Landscaping

- 24.1 Paragraph 131 of the NPPF 2021 notes the important contribution that trees make to the character and quality of urban environments, as well as helping to mitigate climate change. Planning decisions should take opportunities to incorporate trees elsewhere in development, that appropriate measures are in place to secure the long term maintenance of newly planted trees and that existing trees are retained wherever possible.
- 24.2 Policy DM5 (Trees and Landscape) of the Development Management Policies Document (2015) sets out that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by [inter alia]:
- continuing to maintain trees in streets and public open spaces and selectively removing, where absolutely necessary, and replacing and replanting trees; and
 - requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature trees and other planting.

The application is accompanied by an Arboricultural Impact Assessment Report prepared by DPA Arboricultural Consultants, dated July 2021. The report confirms that it is proposed to remove 6 trees at the site, all of which are considered not to be significant to the local or wider landscape.

- 24.3 The Council's Tree Officer has thoroughly reviewed the submitted documents and found them to provide a fair representation of the tree situation on site. The Council's Tree Officer and has raised no objection to the loss of the identified trees and has raised no concerns relating to the future health of the trees to be retained.
- 24.4 Subject to, in the event permission is granted, conditions to secure an Arboricultural Method Statement and Tree Protection Plan to ensure that the trees marked for retention are protected during construction works and the operational phase, as well as conditions to secure a soft landscaping scheme with associated maintenance plans, the proposal would accord with Policy DM5 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

25 Biodiversity and Ecology

- 25.1 The Local Planning Authority have a duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 25.2 Paragraph 180 of the NPPF 2021 states (inter alia) that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 25.3 Policy CS3 of the Core Strategy 2007 sets out that development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 25.4 Policy DM4 of the Development Management Policies Document 2011 seeks to ensure that new development takes every opportunity to enhance the nature conservation potential of a site and secure a net benefit to biodiversity. It sets out that development affecting any site or building that supports species protected by Law including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.

- 25.5 The application is supported by an Ecological Survey, prepared by AA Environmental Limited, reference 203085/JDT and dated 16 February 2021 and correspondence also prepared by Ethos dated 27 April 2021, which concludes that there was no evidence of protected species recorded either within the existing buildings or externally within the site.
- 25.6 Notwithstanding this, in the event permission was granted, it would be reasonable for Officers to recommend ecological mitigation measures in line with current legislation, such as advising for works to stop and Natural England contacted in the event bats are discovered on site, for site clearance to avoid bird nesting season, to minimise light spillage and to provide suitable protective fencing to protect retained landscaping.
- 25.7 In order to provide some biodiversity enhancements at the site, in accordance with the requirements set out in Policy DM4 of the Development Management Policies Document 2015 and paragraph 180 of the NPPF 2021, in the event that planning permission is granted, the recommendations for biodiversity net gain at the site as set out within the Ecological Survey should be secured by condition. These gains include securing suitable native planting of known value to wildlife and the installation of bird nesting and bat roosting boxes at the site.
- 25.8 Subject to the abovementioned conditions should permission be granted; the Local Planning Authority are satisfied that they have carried out their duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect the species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 25.9 The proposal would not prejudice the existing ecological value of the site and would enhance the conservation potential of a site in accordance with Policy CS3 of the Core Strategy 2007, Policy DM4 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

26 Sustainability

- 26.1 Policy CS6 of the Core Strategy 2007 states [inter alia] that development should result in a sustainable environment and ensure that new development minimises the use of energy in the scheme, minimises the emission of pollutants into the wider environment, minimises the energy requirements of construction and incorporates waste management processes.

26.2 The application is supported by a Design and Access Statement, prepared by Form Design Group, reference 1726 and dated July 2021 which (at Section 6) demonstrates how the proposed development would incorporate a number of sustainability and energy efficiency measures, such as mechanical ventilation systems, condensing gas boilers, water efficient measures and sustainable construction measures.

26.3 As such, it is considered that the proposal would be able to secure a sustainable development outcome and would therefore accord with Policy CS6 of the Core Strategy (2007)

27 Flood Risk and Surface Water Drainage

27.1 Paragraph 167 of the NPPF 2021 states that when determining any planning applications, LPAs should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

27.2 Paragraph 169 of the NPPF 2021 sets out that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.

27.3 Policy CS6 of the Core Strategy 2007 states that proposals for development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change. In order to conserve natural resources, minimise waste and encourage recycling, the Council will ensure that new development [inter alia] avoids increasing the risk of, or from flooding.

27.4 Policy DM19 of the Development Management Policies Document 2015 states that the Council will expect development to reduce the volume and rate of surface water run-off through the incorporation of appropriately designed Sustainable Drainage Systems (SuDs) at a level appropriate to the scale and type of development.

27.5 The application is supported by a Flood Risk Assessment, prepared by Lanmor Consulting, referenced 202149/FRA/MK/RS/03 dated July 2021.

- 27.6 The site is located in an area of low flood risk, outside of Flood Zone 2 and 3 as identified on the Environment Agency Flood Risk Maps. Notwithstanding this, the application is supported by a Flood Risk Assessment.
- 27.7 In terms of fluvial flooding, the site, and therefore the proposed development, would be wholly in Flood Zone 1. As such, the development has low risk of fluvial flooding. Furthermore, the access to the site is also located within Flood Zone 1 and would continue unimpeded to provide safe access to and from the residential developments in the event of a flood.
- 27.8 As the proposed development would lie within Flood Zone 1, neither the sequential test nor the exceptions test, as set out in the Governments guidance 'Flood risk assessment: the sequential test for applicants' 2017 needs to be carried out
- 27.9 With respect to pluvial flooding, the site does not fall within a Critical Drainage Area. Although the the site is currently developed and contains hard surfacing, the proposal would introduce a greater volume of hard surfacing, thereby increasing the impermeability of the site.
- 27.10 The geology of the site demonstrates that infiltration drainage techniques would not be suitable on the site and therefore an underground attenuation tank is proposed, with some runoff to be attenuated by the roof construction and permeable paving. The which is then released at a controlled rate into the existing nearby surface water public sewer network.
- 27.11 The Lead Local Flood Authority have confirmed that the drainage proposal satisfies the requirements of the NPPF 2021 and has recommended that should permission be granted, suitable conditions are required to secure the details of the design of the surface water drainage scheme and to ensure that it is properly implemented and maintained throughout the lifetime of the development.
- 27.12 As such, it is considered that the flood risk and surface water flooding have been addressed in accordance with Policy CS6 of the Core Strategy 2007, Policy DM19 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

28 Land Contamination

- 28.1 Paragraph 183 of the NPPF 2021 states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

- 28.2 Paragraph 184 of the NPPF 2021 continues where a site is affected by contamination issues, responsibility for securing a safe development rests with the developer and/or landowner in accordance with paragraph 179 of the NPPF 2021.
- 28.3 Policy DM17 of the Development Management Policies Document 2015 states [inter alia] that where it is considered that land may be affected by contamination, planning permission will only be granted if it is demonstrated that the developed site will be suitable for the proposed use without the risk from contaminants to people, buildings, services or the environment including the apparatus of statutory undertakers.
- 28.4 The site lies adjacent to a former sawmill. As such, the Council's Contaminated Land Officer has recommended contamination conditions, in the event permission is granted, in order to ensure that risks from land contamination to 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 off site receptors.
- 28.5 Subject to these conditions in the event permission is granted, the proposal is considered to accord with Policy DM17 (of the Development Management Policies Document (2015) and the requirements of the NPPF 2021.

29 Community Infrastructure Levy (CIL)

- 29.1 The proposal will be CIL liable.

30 Planning Balance

- 30.1 As the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 11 (d) of the NPPF 2021 is engaged as the policies which are most important for determining the application are out-of-date. There are no footnote 8 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied.
- 30.2 The presumption is therefore to grant permission for sustainable development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.

- 30.3 The proposed development would make a meaningful contribution towards delivering the Council's housing target and would therefore be consistent with the Framework and Council policy in so far as it seeks to significantly boost the supply of homes. This is a significant benefit of the scheme.
- 30.4 The proposal would create short term economic benefits during the construction period. Furthermore, the proposed development would create more long-term benefits to the local economy due to the increased spending in the area. This is a significant benefit of the scheme.
- 30.5 The provision of affordable housing in developments is afforded significant weight in the planning balance. However, the level of affordable housing proposed would not accord with the Council's policies in relation to affordable housing. In attributing weight in the planning balance, the provision of two affordable units is considered to be a minor benefit of the scheme. However, the absence of an appropriate mechanism to secure the affordable housing on site contribution would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.6 The proposal would accord with the Council's policies in relation to ecology, flood risk, surface flooding, land contamination and sustainability.
- 30.7 The conflict with Policies DM11, DM12 and DM13 of the of the Development Management Policies Document 2015 is attributed minor adverse weight given the Council's position set out in the report entitled "Making the Efficient Use of Land – Optimising Housing Delivery".
- 30.8 The conflict with Policy DM22 of the of the Development Management Policies Document 2015 is attributed minor adverse weight, as it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.
- 30.9 The shortfall of on-site car parking spaces would not be policy compliant. However, as a result of such a minimal 0.5 vehicle space shortfall, this policy conflict is therefore attributed minor adverse weight.
- 30.10 As a result of its overall scale and design, the proposed development would cause significant harm to the character and appearance of the area. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.

- 30.11 The proposed development would not meet the minimum space standards for residential accommodation and would not provide adequate outdoor private amenity space failing to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.12 The proposed development would cause significant harm to the private amenities of the occupiers of surrounding properties by way of off loss of light, loss of outlook and loss of privacy. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.13 Overall, the adverse impact on the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The application would therefore have been recommended for refusal

31 Recommendation

That the Planning Inspectorate be informed that the Local Planning Authority would have REFUSED permission for the following reasons:

1. In the absence of an appropriate legal agreement to secure the provision of affordable housing within the meaning of the NPPF, the proposal would fail to create a sustainable, inclusive and mixed community, contrary to Policy CS9 of the Core Strategy 2007 and paragraph 65 of the NPPF 2021.
2. As a result of its scale and intervening hard surfacing, the proposed development would represent an overdevelopment of the site that would conflict with the pattern of development in the locality and would give rise to an overbearing relationship with the adjacent buildings. Furthermore, as a result of its contrived design, the proposed development would be visually unattractive and an unsympathetic addition to the street scene, causing harm to the character and appearance of the area. In accordance with paragraph 134 of the NPPF 2021, the permission should be refused as it would be contrary to paragraph 130 of the NPPF 2021, Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007, Policies DM9 and DM10 of the Epsom and Ewell Development Management Policies 2015, the Epsom and Ewell Borough Council Character Study and the Epsom and Ewell Single Plot and other types of Residential Infill Development SPG 2003

3. The proposed development would fail to provide all future occupiers with adequate internal living conditions as a result of sub-standard quality of accommodation and would fail to provide all future occupiers with private outdoor amenity space. The proposed development would fail to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers. As such, it is considered that the proposal would fail to comply with paragraph 130 of the National Planning Policy Framework 2021, Policy DM12 of the Development Management Policies Document 2015 and the Technical Housing Standards - Nationally Described Space Standards 2015.
4. The proposed development, as a result of its scale, design and proximity to boundaries, would result in an unacceptable loss of sunlight, day light, outlook privacy and would appear unduly overbearing to the extent that it would materially harm the amenities of the occupiers of surrounding neighbouring properties, contrary to Policy DM10 of the Development Management Policies Document 2015.

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