

# Public Document Pack

Legal and Democratic Services



## PLANNING COMMITTEE

Thursday 21 April 2022 at 7.30 pm

Place: Council Chamber - Epsom Town Hall,

<https://attendee.gotowebinar.com/register/211767461336938253>

Webinar ID: 295-785-235

Telephone (Listen only): +44 330 221 9914, Telephone Access Code: 892-116-851

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](mailto:democraticservices@epsom-ewell.gov.uk) or tel: 01372 732000

### **EMERGENCY EVACUATION PROCEDURE**

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- 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](mailto: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](mailto: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](mailto: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 - 16)**

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Planning Committee held on 10 March 2022 (attached) and authorise the Chairman to sign them.

### **3. THE WELLS, 3-13 CHURCH STREET, EPSOM (Pages 17 - 42)**

Change of use of office building (Use Class E) to a care facility (Use Class C2) and infilling part of the ground floor, conversion of the roof space including part alteration and extension to the rear and other associated external alterations.

### **4. SHADBOLT PARK, SALISBURY ROAD, WORCESTER PARK (Pages 43 - 50)**

Installation of a 7m galvanised steel column with a larch nesting box at the top, sited on the grass garden area at the rear of Shadbolt Park House Surgery.

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**Minutes of the Meeting of the PLANNING COMMITTEE held at the Council Chamber,  
Epsom Town Hall on 10 March 2022**

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**PRESENT -**

Councillor Steven McCormick (Chair); Councillor Clive Woodbridge (Vice-Chair); Councillors Kate Chinn, Nigel Collin, Neil Dallen, Previn Jagutpal, Jan Mason, Julie Morris, Lucie McIntyre, Phil Neale and Humphrey Reynolds

Absent: Councillor Monica Coleman and Councillor Clive Smitheram

Officers present: Justin Turvey (Planning Development Manager), Gemma Paterson (Principal Planning Officer), Euan Cheyne (Planning Officer), Lidia Harrison (Legal Officer) and Stephanie Gray (Democratic Services Officer)

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**32 DECLARATIONS OF INTEREST**

Declarations of Interest

Councillor Kate Chinn, Other Interest: In the interests of openness and transparency, Councillor Kate Chinn declared that all Councillors had received correspondence regarding Item 4 on the agenda but that she came to the meeting with a clear and 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 & Town Ward Residents' Association and the Epsom Civic Society, but that he came to the meeting with a clear and open mind.

Declarations of Interest

Councillor Nigel Collin, Other Interest: In the interests of openness and transparency, Councillor Nigel Collin declared that he had received correspondence relating to items on the agenda but that he came to the meeting with a clear and open mind.

Declarations of Interest

Councillor Nigel Collin, Other Interest: In the interests of openness and transparency, Councillor Nigel Collin declared that he is the Borough Heritage Champion.

Declarations of Interest

Councillor Steven McCormick, Other Interest: In the interests of openness and transparency, Councillor Steven McCormick declared that all Councillors had received correspondence on Item 3 (101-117 East Street) and Item 4 (Land Rear of 23A to 33 Links Road), but that they came to the meeting with a clear and open mind.

Declarations of Interest

Councillor Steven McCormick, Other Interest: In the interests of openness and transparency, Councillor Steven McCormick declared that he is a member of the Epsom

& Town Ward Residents' Association, the Epsom Civic Society, the Epsom & Ewell Tree Advisory Board, Epsom Rotary and the Surrey Tree Wardens Network.

### 33 MINUTES OF THE PREVIOUS MEETING

The Minutes of the previous meeting of the Committee held on 17 February 2022 were agreed as a true record and signed by the Chair.

### 34 107-111 EAST STREET, EPSOM, KT17 1EJ

#### 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

Following consideration, it was resolved (7 in favour, 3 against, 0 abstaining and the Chair not voting) that the application be **REFUSED** for the following reasons:

1. The proposed rear access road, by reason of its layout and the proposed vehicular access arrangements, would give rise to highway and pedestrian safety issues, in conflict with Policy CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015) and guidance contained within the National Planning Policy Framework (2021).

2. The proposal would fail to provide an appropriate level of on-site car parking resulting in harm on the amenities of surrounding residential occupiers' in terms of streetscene and availability of on-street car parking. The proposed 16 on-site car parking spaces would not meet the minimum parking standards set out in Table 1 of the Council's Parking Standards for Residential Development SPD (2015), in conflict with 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), and guidance contained within the National Planning Policy Framework (2021).

3. The proposal, by reason of its bulk, mass and density, would adversely impact and harm the character and appearance and visual amenities of the surrounding area, in conflict with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM9 (Townscape Character and Local Distinctiveness), DM10 and Policy DM10 (Design Requirements for New Developments (including House Extensions)) and Policy DM11 (Housing Density) of the LDF Development Management Policies Document (2015) and guidance contained within the National Planning Policy Framework (2021).

4. In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure an affordable housing contribution, the applicant has failed to comply with Policy CS9



(Affordable Housing and meeting Housing Needs) of the LDF Core Strategy (2007).

**35** LAND REAR OF 23A TO 33 LINKS ROAD, EPSOM

Description

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

Decision

The Committee received a presentation from the Planning Officer.

Following consideration, the Committee resolved (7 in favour of approval, 2 in favour of refusal, 1 abstention and the Chair not voting) to **APPROVE** the application subject to the following conditions:

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 (to include size and species of new mature tree planting) 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 area 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).

(17) The native wildflower green roof planting shall be maintained for 10 years and any planting 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 preserve and enhance biodiversity in accordance with Policies DM10 Design Requirements for New Developments (including House Extensions) and 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 groundworks 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 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.

## 36 21/01406/FUL 140 - 142 RUXLEY LANE, WEST EWELL, SURREY, KT19 9JS

### Description

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

### Decision

The Committee noted a presentation from the Principal Planning Officer.

The application had been appealed on the basis of non-determination. Members would be considering whether they would have refused the proposal or if they would have approved the proposal.

Following consideration, the Committee resolved with 10 members voting in favour of refusal, none against and no abstentions, and the Chair not voting, that the application would have been **REFUSED** on the following grounds:

- (1) 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.
- (2) 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) 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.
- (4) 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. 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 meeting began at 7.30 pm and ended at 10.32 pm

COUNCILLOR STEVEN MCCORMICK (CHAIR)



<b>Ward:</b>	<b>Town Ward;</b>
<b>Site:</b>	<b>The Wells, 3-13 Church Street, Epsom, Surrey, KT17 4PF</b>
<b>Application for:</b>	<b>Change of use of office building (Use Class E) to a care facility (Use Class C2) and infilling part of the ground floor, conversion of the roof space including part alteration and extension to the rear and other associated external alterations</b>
<b>Contact Officer:</b>	<b>Euan Cheyne</b>

## 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/simpleSearchResults.do?action=firstPage>

## 2 Summary

- 2.1 The application seeks planning permission for the change of use of the office building (Use Class E) to a care facility (Use Class C2) and infilling part of the ground floor, conversion of the roof space including part alteration and extension to the rear and other associated external alterations.
- 2.2 The application is classified as a major planning application (3907sqm floorspace > 1000sqm floorspace), therefore the case is referred to the Planning Committee, in accordance with the Council's Scheme of Delegation.
- 2.3 The existing building has been vacant for over two years (since 01/01/2020). It is considered that the community need and housing provision would strongly weigh in favour of the scheme and would outweigh the loss of office floorspace.
- 2.4 The proposal would involve a number of alterations to the existing façade and building to facilitate the change of use. It is considered that the proposed external alterations, extensions, materials and finishes would be contextually appropriate and would enhance the overall appearance of the building and the visual amenities of the surrounding area.

- 2.5 The proposal would be provided with 12 on site-car parking spaces which is considered sufficient, by reason of the highly sustainable location and that care homes typically don't generate high visitor/occupier demand. Further details of the type and provision of cycle parking will be secured via a planning condition.
- 2.6 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.
- 2.7 The application is recommended for APPROVAL subject to planning conditions being imposed.

### 3 Site Description

- 3.1 The existing site comprises a three storey office building located on the north west side of Church Street. The existing site also comprises an underground car park currently providing 44 car parking spaces at basement and ground level, accessed from Depot Road.
- 3.2 The surrounding area is mixed in character and appearance. The site falls with the Epsom Town Centre Boundary and just outside the Primary Shopping Area.
- 3.3 The site does not contain a Listed Building and is not located within a Conservation Area, however part of the north boundary and the west boundary back onto the Epsom Town Centre Conservation Area. The site is adjacent to a Locally Listed Building (1 Church Street). The site is partly located within a Critical Drainage Area.
- 3.4 The site is covered by the "The Wells, Church Street, Epsom" Article 4 Direction (December 2015) which removes permitted development rights for a change of use from Class B1(a) (Offices) to a use falling within Class C3 (Dwellinghouses).

**Officer Note:** Class B1(a) (Offices) of the Use Classes was revoked from 01/09/2020 and replaced with a new Class E.

### 4 Proposal

- 4.1 The application seeks planning permission for the change of use of the office building (Use Class E) to a care facility (Use Class C2) and infilling part of the ground floor, conversion of the roof space including part alteration and extension to the rear and other associated external alterations.

## 5 Comments from Third Parties

- 5.1 The application was advertised by means of letters of notification to 12 neighbouring properties. To date (30/03/2022) no representations have been received.
- 5.2 A planning site notice was displayed on 29/04/2021.

## 6 Consultations

- 6.1 **Epsom and Ewell Borough Council (EEBC) Planning Policy Officer:** Overall, taking the information submitted into account and when considering the loss of employment space for the proposed change of use to extra care residential accommodation, it's noted that further information could have been submitted to support the timeline of activities for the active marketing exercise period to help meet the policy requirements regarding the loss of office use in this location. Taking these aspects into consideration within the wider context of the marketing report submitted, it is the planning officer that should be content that the information submitted is sufficient. Notwithstanding this, the information submitted will need to be considered against the benefits of additional residential care units and the wider material planning considerations of the scheme to determine the overall acceptability of the proposal.
- 6.2 **EEBC Ecology Officer:** No objections; suggests including bird/bat boxes as an enhancement as per Policy DM4.
- 6.3 **EEBC Contaminated Land Officer:** No objections, subject to planning conditions.
- 6.4 **Surrey County Council (SCC) Highway Authority (CHA):** No objections, subject to planning conditions.
- 6.5 **SCC Lead Local Flood Authority (LLFA):** We are not satisfied that the proposed drainage scheme meets the requirements set out in the aforementioned documents; however, in the event that planning permission be granted by the LPA, suitably worded conditions should be applied to ensure that the SuDS scheme is properly implemented and maintained throughout the lifetime of the development.
- 6.6 **SCC Archaeological Officer:** I am satisfied that the archaeological potential of this property is negligible and, therefore, no further action is required as regards the buried archaeological heritage in relation to this proposal in this instance.
- 6.7 **Thames Water Development Planning Department:** No objections.

## 7 Relevant Planning History

- 7.1

88/00628/FUL	Demolition of existing premises and erection of 3 storey office development with basement car park and surface parking at rear	Granted 06/02/1989
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## 8 Planning Policy

The National Policy Planning Framework (NPPF) (2021)

LDF Core Strategy (2007)

Policy CS1	Creating Sustainable Communities in the Borough
Policy CS3	Biodiversity and Designated Nature Conservation Areas
Policy CS5	The Built Environment
Policy CS6	Sustainability in New Developments
Policy CS7	Housing Provision
Policy CS13	Community, Cultural and Built Sport Facilities
Policy CS14	Epsom Town Centre

LDF Development Management Policies Document (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 DM12	Housing Standards
Policy DM17	Contaminated Land
Policy DM19	Development and Flood Risk
Policy DM21	Meeting Local Housing Needs
Policy DM35	Transport and New Development
Policy DM36	Sustainable Transport for New Development
Policy DM37	Parking Standards

Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development (November 2021)

## 9 Planning Considerations

9.1 The main issues for consideration in relation to the determination of this application are:

- Principle of Development
- Quality of Accommodation
- Impact upon Character and Appearance and the Epsom Town Centre Conservation Area
- Impact upon Neighbouring Residential Amenities
- 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)
- Conclusion/Planning Balance

Principle of Development

9.2 Paragraph 86 of the National Planning Policy Framework (NPPF) (2021) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It further states [inter alia] that planning policies should:

- (a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

9.3 Policy CS13 (Community, Cultural and Built Sport Facilities) of the Council's LDF Core Strategy (2007) states [inter alia] that the provision of new community facilities will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities both within the Borough and beyond.

- 9.4 Policy CS14 (Epsom Town Centre) of the Council's LDF Core Strategy (2007) states [inter alia] that development should contribute to creating a diversity, richness and balance of uses which will contribute to a flourishing day-time and night-time economy, help satisfy community needs and enhance environmental quality and sustainability.
- 9.5 The proposal seeks the change of use of the office building (Use Class E) to a care facility (Use Class C2), namely a nursing home. The existing accommodation is to be reformatted to provide a nursing home with 55 bedrooms (all with en-suite WC facilities) and supporting community space. The building is currently vacant and has been for over two years (since 01/01/2020).
- 9.6 Use Class C2 is categorised by the Town and Country Planning (Use Classes) Order 1987 as 'Residential Institutions' and defined as a "use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwelling houses)). Use as a hospital or nursing home. Use as a residential school, college of training centre.
- 9.7 'Care' is defined in the in Article 2 of the Use Classes Order as meaning:  
  
"Personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder"
- 9.8 'Personal Care' is ascribed in the Care Quality Commission as meaning:  
  
"The regulated activity of personal care consists of the provision of personal care for people who are unable to provide it for themselves, because of old age, illness or disability, and which is provided to them in the place where those people are living at the time when the care is provided"
- 9.9 The applicant has stated that the form of 'Residential Institution' is to be recognised as a 'nursing home' where in reality residents are 'patients' who require 24-hour care from qualified nursing staff in response to their physical and/or mental disabilities. Sadly, the length of treatment is relatively short and is often provided as end-of-life care.
- 9.10 The applicant has further stated that the current COVID-19 health pandemic has led to changes in many aspects of our lives, including the design of future nursing homes. The proposal has been designed to function on the basis of 10 bedroomed clusters capable of resisting and containing, contagious disease.
- 9.11 The proposed nursing home has been designed to achieve social integration with the wider community. The applicant proposes that the wider community will be widely invited to engage with and participate in the communal facilities that are proposed within the scheme e.g. café-bistro, hair salon, beauty bar, fitness space.

9.12 Policy E5 of the Epsom and Town Centre Area Action Plan (2011) states [inter alia] that within the Town Centre boundary, the loss of existing employment floorspace will be resisted. Proposals that seek to redevelop aging upper floor office floorspace for retail, other commercial A class uses or non-commercial uses will be considered providing the following are demonstrated:

- That there is a sufficient supply of high density employment floorspace with the Town Centre to meet the needs generated by future population growth;

Officer Response:

Paragraph 4.31 of the Epsom and Ewell Town Centre Action Plan (2011) goes on to state that evidence has shown that there is an under-provision of suitable employment floorspace within the Borough and there is relatively little scope for large scale additions. A large proportion of the Borough's office stock is located within Epsom Town Centre, which is a good location for these high density employment uses, being well related to the existing transport network and making a valuable contribution to the local economy.

Policy CS11 (Employment Provision) of the LDF Core Strategy (2007) seeks [inter alia] to protect the amount of employment floorspace, resisting losses in sustainable locations such as Epsom Town Centre.

The applicant has submitted a Marketing Report [prepared by SHW & Smooth Bray Fox] which indicates that there are fluctuations in take up demand of office space within the Borough, however it does not appear to definitively indicate that take up is tailing off or reducing based on the information submitted (Section 4.1).

The Marketing Report states that current supply in Epsom, including the host building, The Wells, totals 116,000 sq. ft. This is equivalent to 3.5 years supply based on the 5 year average take up of 38,000 sq. ft.

- That the proposal site is no longer fit for purpose as Town Centre office stock;

Officer Response:



The Marketing Report presents a mixed perspective in relation to the existing condition of The Wells. It describes the building as “offering modern well specified accommodation” but in contrast also describes the building as “tired and dated and the services are now over 20 years old and have reached the end of their economic life”. It is noted that the images presented in the Marketing Report illustrate the bathrooms, office space and reception areas to be in reasonable condition in specification and appearance. Furthermore, the existing building was granted planning permission (ref. 88/00628/FUL) in 1989, therefore it is not considered that the building in itself is no longer fit for purpose as Town Centre office stock.

- That the existing office use has been subject to an active marketing exercise lasting at least twelve months prior to alternative uses being considered.

Officer Response:

The applicant has stated in the Marketing Report that the property became vacant 1<sup>st</sup> January 2020 and has been marketed extensively since September 2019 and a comprehensive campaign has been implemented to include a letting board, property particulars, mailing to agents and occupiers and promoting the building on agents’ websites e.g. Costar, Rightmove and Zoopla. The Marketing Report concludes that despite actively marketing the property since September 2019 there has only been three viewings with occupiers who are either progressing other options or have put their requirement on hold. There has been no interest from investors looking to refurbish the offices and re-let as they have been deterred by the lack of demand, high cost of refurbishment, modest rents and significant letting risk.

- 9.13 The applicant’s Marketing Report has been independently reviewed by Economic Growth Management (EGM), on behalf of the Council. EGM have concluded that in view of the extraordinary circumstances that have hit the global economy, a longer marketing period would demonstrate non-viability of the continued office use; however it must be noted that the marketing exercise began two and half years ago, compared to the one year marketing required in normal circumstances.
- 9.14 Policy DM21 (Meeting Local Housing Needs) of the LDF Development Management Policies Document (2015) states that the Council will grant planning permission for specialised forms of residential accommodation subject to the following requirements being met:
- That the application documentation includes clear and robust evidence that demonstrates that there is a need for the new accommodation; and
  - The delivery of the new accommodation does not result in an over-provision of that particular type of accommodation; and

- The design of the proposal is demonstrated as being sufficiently flexible to readily accommodate conversion to other appropriate uses, either residential or non-residential, in the event that the need for the permitted use declines.
- 9.15 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.
- 9.16 The National Planning Practice Guidance states that Local Planning Authorities will need to count housing provided for older people, including Residential Institutions in Use Class C2, as part of their housing land supply. A reduction factor is applied based upon calculations on the average number of adults living in households, using the published census data.
- 9.17 The equivalent of 30 residential units will help contribute to the above 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.
- 9.18 The equivalent of 30 residential units would provide a significant public benefit, which weighs in favour of the scheme. Furthermore, it could be argued that the proposal would enable older people to move out of their existing homes (or other sheltered housing accommodation for example which would have a similar knock on effect) into extra care accommodation, which would free up existing housing stock for the next generation.
- 9.19 It is considered that the community need and housing provision would strongly weigh in favour of the scheme and would outweigh the loss of office floorspace. It is acknowledged that the market has been difficult for some time, largely due to the COVID-19 pandemic. As such, the principle of development is considered to be acceptable in this instance, subject to the below other material planning considerations.

#### Quality of Accommodation

- 9.20 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.

- 9.21 The Nationally Described Space Standards (2015) 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. These standards are not applicable to extra-care accommodation (Use Class C2), however it is considered important that the bedrooms are adequately sized to meet the Care Quality Commission (CQC) or equivalent standards.
- 9.22 The proposed bedrooms would be split across the ground floor (9 bedrooms), first floor (17 bedrooms), second floor (17 bedrooms) and third floor (12 bedrooms).
- 9.23 The proposed bedrooms would all exceed 11.5sqm and are considered to be of an adequate size and would all be provided with an ensuite bathroom with the latter being a requirement of the CQC.
- 9.24 There would be dedicated day spaces on each floor as well as external amenity space at ground floor level and a covered external terrace area at third floor level.
- 9.25 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).

Impact upon Character and Appearance and the Epsom Town Centre Conservation Area

- 9.26 The National Planning Policy Framework (NPPF) (2021) attaches great importance to the design of the built environment.
- 9.27 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.
- 9.28 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.
- 9.29 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.

- 9.30 Policy DM8 (Heritage Assets) of the Council's LDF Development Management Policies Document (2015) states that the Council will resist the loss of our Heritage Assets and every opportunity to conserve and enhance them should be taken by new development.
- 9.31 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.
- 9.32 The proposal would involve a number of alterations to the existing façade and building to facilitate the change of use. It is proposed to remove the ground floor external wall on the Church Street frontage and construct a new wall set back by approximately 1.2 metres and replace the existing ground floor building line with a low level brick walk with railings above to a maximum height of approximately 1.1 metres. A number of velux rooflights would be installed on the existing front and rear roofslope in order to facilitate the conversion of the roofspace to habitable space.
- 9.33 The existing hipped roof of the three storey out-rigger element would be replaced with a flat roof extension set down from the original roof ridge line. The proposed materials would be a light/dark grey vertical cladding system. The existing under croft area currently used for car parking would be infilled to provide additional habitable floorspace.
- 9.34 There is not considered to be any detrimental impact upon the setting of the Epsom Town Centre Conservation Area or the adjacent Locally Listed Building.
- 9.35 It is considered that the proposed external alterations, extensions, materials and finishes would be contextually appropriate and would enhance the overall appearance of the building and the visual amenities of the surrounding area.

- 9.36 As such, it is considered that the proposal would comply with Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM8 (Heritage Assets), 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

- 9.37 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.
- 9.38 The proposed alterations and extensions, by reason of their siting in relation to the neighbouring built form, is not considered to have any significant impact upon any neighbouring residential amenities.
- 9.39 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

- 9.40 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.
- 9.41 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.
- 9.42 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.
- 9.43 Surrey County Council Vehicular and Cycle Parking Guidance (2018) requires a maximum of 1 space per 2 residents or an individual assessment/justification for C2 Use/Care Home/Nursing Home. As such, in accordance with this guidance the proposal should provide a maximum of 27 car parking spaces.

- 9.44 Dwg No. 201/PL 1 – Proposed Lower Ground Floor Layout demonstrates that the proposal would be provided with 12 car parking spaces accessed via a ramp from Depot Road. This is considered to be satisfactory, subject to a planning condition stating that vehicles must enter and leave the site in forward gear.
- 9.45 It is considered that 12 on-site car parking spaces would be sufficient, by reason of the highly sustainable location and that care homes typically don't generate high visitor/occupier demand. No patient would be a car owner/user and the parking provision is solely for the requirements of staff and visitors. Surrey County Council have raised no objection to the scheme on that basis.
- 9.46 Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development (2021) states that 20% of available spaces shall be fitted with a fast charge sockets. As such, in accordance with this guidance the proposal should provide the equivalent of 3 Electric Vehicle Charging Points (EVCPs). This aspect will be secured via a planning condition.
- 9.47 Surrey County Council Highway Authority (CHA) have raised concern with the proposed capacity for only two bicycles, however, they confirm that further details of an appropriate level and provision of cycle parking can be secured via a planning condition.
- 9.48 As such, it is considered that the proposal would not give rise to any severe highway impacts and would comply with the NPPF (2021), 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

- 9.49 There is limited information in relation to the refuse and recycling facilities. Dwg No. 202/PL1 indicates space adjacent to the existing Sub Station where the refuse and recycling bins will be stored and collected off Depot Road. It is considered that further details of the refuse/recycling facilities shall be provided to ensure that it is fit for purpose. This aspect will be secured via planning conditions.

#### 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 existing site has very little soft landscaping. The proposal would introduce some soft landscaping where possible, including a few small trees and a green wall, which is considered to be an improvement over the existing situation.
- 9.53 As such, it considered that the proposal would comply with Policy DM5 (Trees and Landscape) of the LDF Development Management Policies Document (2015).

#### Biodiversity and Ecology

- 9.54 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.
- 9.55 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.
- 9.56 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.
- 9.57 The applicant has submitted a Preliminary Roost Assessment [prepared by Griffin Ecology Ltd]. The existing building has been identified to offer negligible suitability to support bat roosting as a result of its construction and lack of features present.

- 9.58 The Preliminary Roost Assessment identifies that there is an opportunity to enhance the ecological value of the site and deliver net gains for biodiversity. The ecological enhancements include artificial nesting opportunities for bird species such as house martin and house sparrow, which are likely to existing in the locality. It is considered that these ecological enhancements should be secured via a planning condition.
- 9.59 The Council's Ecology Officer has raised no objections and has suggested bird/bat boxes to enhance biodiversity. This aspect will be secured via a planning condition.
- 9.60 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

- 9.61 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.
- 9.62 It is considered that environmental sustainability should be integral to all development.
- 9.63 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).

#### Flood Risk and Surface Water Drainage

- 9.64 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.
- 9.65 Paragraph 168 of the NPPF (2021) sets out that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.
- 9.66 Policy CS6 (Sustainability in New Developments) of the LDF Core Strategy (2007) states [inter alia] that the Council will ensure that new development avoids increasing the risk of, or from, flooding.



- 9.67 Policy DM19 (Development and Flood Risk) of the LDF Development Management Policies Document (2015) states [inter alia] 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.
- 9.68 The site is located within Flood Risk Zone 1 (Low Probability of Flooding) and a section of the west of the site curtilage is located within a Critical Drainage Area. The site is 0.117 hectares in size.
- 9.69 Critical Drainage Areas are specific areas within Flood Risk Zone 1 where man made drainage infrastructure has been identified by the Environment Agency as at critical risk of failure, resulting in runoff causing problems downstream.
- 9.70 Surrey County Council Flood Risk Officer/Lead Local Flood Authority (LLFA) have reviewed the proposal and have stated that they are not satisfied that the proposed drainage scheme meets the requirements because insufficient information has been provided, however have advised that this could be overcome via suitably worded planning conditions.
- 9.71 The applicant has responded to the consultation response stating it is readily apparent that the LLFA have misunderstood the proposal, by reason that the application is for a change of use of an existing building and the provision for storm water drainage is no different to the current situation.
- 9.72 The LLFA responded stating that the reasoning for their response was based on the following assessment criteria:
- the site is located within a Critical Drainage Area;
  - the site is within an area with high surface water flood risk;
  - the use class is changing from 'less vulnerable' to 'more vulnerable';
  - the original design life of the office building is likely to have been 30-50 years, where the proposed change to residential will extend the life of the building up to approximately 80-100 years

The LLFA concluded that they do not believe it unreasonable to request that evidence is submitted to confirm that the existing surface water drainage is fit for purpose and will be maintained for the lifetime of the development. If there is an opportunity to include sustainable drainage then it should be explored. If there can be a reduction in discharge from the site then it will help the downstream system and reduce flood risk overall.

- 9.73 As such, it is considered, subject to appropriately worded planning conditions, that the proposal would comply with the NPPF (2021), 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

- 9.74 Paragraph 185 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.
- 9.75 Policy DM17 (Contaminated Land) of the Council's 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.
- 9.76 The Council's Contaminated Land Officer have reviewed the proposal and have advised that the site is situated opposite a former fuel station and car repair works. A coachworks, metal works and also an electrical works were formerly located near the rear of the building. A current car repair works is situated close to the building off Depot Road. The geology beneath the two halves of the building differs and permeable.
- 9.55 The Council's Contaminated Land Officer has stated that a site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas and contaminants with the potential to impact sensitive receptors on and off site is needed. This aspect will be secured via a planning condition.
- 9.77 As such, it is considered that the proposal would comply with Policy DM17 (Contaminated Land) of the LDF Development Management Policies Document (2015).

#### Community Infrastructure Levy (CIL)

- 9.78 The proposal would be CIL Liable.

### **10 Conclusion/Planning Balance**

- 10.1 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.

- 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 proposed change of use of the office building (Use Class E) to a care facility (Use Class C2) would provide a significant community benefit and the provision of additional housing comprises a significant social benefit which would together outweigh the loss of the office floorspace.
- 10.4 Taking all the 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.

**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:

201/PL1 Proposed Lower Ground Floor Layout (Received 12/02/2021)  
202/PL1 Proposed Ground Floor Layout (Received 12/02/2021)  
203/PL1 Proposed First Floor Layout (Received 12/02/2021)  
204/PL1 Proposed Second Floor Layout (Received 12/02/2021)  
205/PL1 Proposed Third Floor Layout (Received 12/02/2021)  
206/PL1 Proposed Elevations (Received 12/02/2021)  
207/PL1 Proposed Elevations (Received 12/02/2021)  
208/PL1 Proposed Roof Layout (Received 12/02/2021)  
209/PL1 Proposed Sections (Received 12/02/2021)  
210/PL1 Red Line Boundary Site Layout (Received 12/02/2021)  
Design and Access Statement (Received 12/02/2021)  
SJT/RT/22511-01 Transport Statement (Received 12/02/2021)  
Preliminary Roost Assessment [prepared by Griffin Ecology Ltd] (Received 12/02/2021)

**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 roofing, windows and rainwater goods) 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 ensure 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 of a scheme of hard and soft landscaping (specifying species, quantities, sizes at time of planting) 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).

- (5) The approved areas of hardstanding will be porous or permeable, or shall direct surface water to a porous or permeable area 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).

- (6) No part of the development shall be first occupied unless and until a minimum of ten, at grade, secure, covered and lit cycle parking spaces have been provided in accordance with a scheme to be submitted to 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).

- (7) No part of the development shall be first occupied unless and until the proposed new vehicular access and the proposed modified access to Depot Road have been constructed and provided with visibility zones in accordance with the approved plans, and thereafter the visibility zones shall be permanently clear of any obstruction over 600mm 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 DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (8) 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 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 Policy DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (9) 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) programme of works (including measures for traffic management);
- (e) provision of boundary hoarding behind any visibility zones;
- (f) measures to prevent the deposit of materials on the highway;
- (g) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused;
- (h) measures to prevent the deposit of materials on the highway

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during 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 DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

- (10) The development hereby approved shall not be occupied unless and until three of the proposed parking spaces are provided with a fast-charge Electric Vehicle charging point (current minimum requirements - 7kw Mode 3 with Type 2 connector -230v AC 32 Amp single phase dedicated supply) 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).

- (11) Prior to occupation of the development hereby permitted the applicant shall supply details of locations of bird and bat boxes, as well as swift bricks, to be located within the proposed development. The approved details shall be retained in perpetuity for the lifetime of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard and enhance biodiversity in accordance 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).

- (12) 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 Local 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 existing on-site drainage is fit for purpose.
- b) 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 from increased flood risk.
- c) Details of drainage management responsibilities and maintenance regimes for the drainage system.

**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 in accordance with Policy CS6 (Sustainability in New Developments) and Policy DM19 (Development and Flood Risk) of the LDF Development Management Policies Document (2015).

- (13) 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 surface water 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), and confirm any defects have been rectified.

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

- (14) Unless otherwise agreed by the Local Planning Authority, the following must be undertaken prior to occupation of the new development, in accordance with current best practice guidance:

A site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas (including hydrocarbons) and contaminants (including asbestos) 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. 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. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site and verification report shall incorporate the approved additional measures.

**Reason:** To control significant harm from land contamination to human beings, controlled waters, buildings and or/ecosystems as required by Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

- (15) The development hereby approved shall not be occupied until details of the refuse and recycling facilities for the occupants of the care facility 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).

- (16) 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 (2021) and Policy CS16 (Managing Transport and Travel) 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.
- (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) The permission hereby granted shall not be construed as authority to carry out any 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 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/flooding-advice](http://www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice)

- (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) 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 streetlights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.

- (8) 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.
- (9) The developer would be expected to agree a programme of implementation of all necessary statutory utility works associated with the development, including liaison between Surrey County Council Streetworks Team, the relevant Utility Companies and the Developer to ensure that where possible the works take the route of least disruption and occurs at least disruptive times to highway users.
- (10) 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.

<b>Ward:</b>	<b>Cuddington Ward;</b>
<b>Site:</b>	<b>Shadbolt Park, Salisbury Road, Worcester Park, Surrey</b>
<b>Application for:</b>	<b>Installation of a 7m galvanised steel column with a larch nesting box at the top, sited on the grass garden area at the rear of Shadbolt Park House Surgery</b>
<b>Contact Officer:</b>	<b>Euan Cheyne</b>

## **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/simpleSearchResults.do?action=firstPage>

## **2 Summary**

- 2.1 The application seeks planning permission for the installation of a 7 metre high galvanised steel column with a larch nesting box at the top (hereby referred to as a swift tower), sited on the grass garden area at the rear of Shadbolt Park House Surgery.
- 2.2 The proposed swift tower would contain 12 swift 'apartments' on two levels (approximately 0.8 metres in height) and would also comprise of a timed swift call audio system (mounted inside the top cap).
- 2.3 The proposed swift tower is considered to be a positive scheme from an ecological perspective and would not cause any harm upon character and appearance or detrimental impact upon neighbouring residential amenities.
- 2.4 The applicant is an Epsom and Ewell Borough Councillor, therefore the case is referred to the Planning Committee in accordance with the Council's Scheme of Delegation.
- 2.5 The application is to be paid for from a successful CIL Neighbourhood bid.
- 2.6 The application is recommended for APPROVAL subject to planning conditions being imposed.

### 3 Site Description

- 3.1 The site comprises a grass garden area within Shadbolt Park, an approximate 2.72 hectare garden park with many interesting tree and plant species.
- 3.2 The proposed swift tower would be sited at the rear of Shadbolt Park House Surgery.
- 3.3 The site does not contain a Listed Building and is not located within a Conservation Area.

### 4 Proposal

- 4.1 The application proposes the installation of a 7 metre high galvanised steel column with a larch nesting box at the top, sited on the grass garden area at the rear of Shadbolt Park House Surgery.

### 5 Comments from Third Parties

- 5.1 The application was advertised by means of letters of notification to 12 neighbouring properties. To date (28/03/2022) 2 letters of objection (not including duplicate responses from the same objector/address) have been received regarding:
  - adverse visual impact
  - the park has plenty wildlife, with birds and bat boxes – why would you want to put a 7m steel column in a lovely little park?
  - why can't nesting boxes be placed on existing trees within the park?
  - impact of noise from swift call audio system to surrounding houses is not clear in this application
  - site prone to flooding
  - park has numerous large dead branches on trees – but there is no money for dealing with that
  - eyesore and complete waste of money
  - loss of outlook

### 6 Consultations

- 6.1 **Epsom and Ewell Borough Council Ecology Officer:** No objections, support the proposal.

**Epsom and Ewell Borough Council Design Officer:** No objections.

### 7 Relevant Planning History

- 7.1 None.

## 8 Planning Policy

The National Policy Planning Framework (NPPF) (2021)

LDF Core Strategy (2007)

Policy CS3 Biodiversity and Designated Nature Conservation Areas

Policy CS5 The Built Environment

LDF Development Management Policies Document (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 (including House Extensions)

## 9 Planning Considerations

9.1 The main issues for consideration in relation to the determination of this application are:

- Impact upon Character and Appearance of the Area
- Impact upon Neighbouring Residential Amenities
- Biodiversity and Ecology

Impact upon Character and Appearance of the Area

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

9.3 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.

9.4 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.

- 9.5 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.
- 9.6 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.
- 9.7 The proposed swift tower structure would have a maximum height of approximately 7 metres. It would be constructed on a foundation base measuring approximately 1.4 metres by 1.4 metres. This would be underground and not visible. The proposed swift tower apartments element would have a height of approximately 0.8 metres, comprising of two levels.
- 9.8 It is accepted that the introduction of such a structure will always be, to some degree, a noticeable addition, however this does not always equate to significant harm that would warrant grounds for refusal.
- 9.9 The proposed swift tower would be located within the middle of Shadbolt Park, in which there are a number of mature trees with a height in excess of 7 metres, and is also relatively close to the existing surgery building, therefore it is not considered to be unduly overbearing or result in any significant harm to character and appearance that would warrant grounds for refusal.
- 9.10 The proposed materials and finishes would comprise of concrete with reinforcing steel mesh for the base, galvanised steel for the column and larch wood for the nesting box.
- 9.11 The Council's Design Officer has raised no objections.
- 9.12 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

- 9.13 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.

- 9.14 The proposed swift tower, by reason of its siting in the middle of Shadbolt Park, is not considered to have any significant impact, in terms of privacy, outlook, daylight/sunlight, upon neighbouring residential amenities. The proposed swift tower would be located approximately 50 metres from the rear boundary line of properties on Edenfield Gardens. There are a number of mature trees around the perimeter of the park, therefore it is considered that neighbouring occupiers would see very little, if any, of the proposed swift tower from their gardens due to the tree screening.
- 9.15 The proposed swift tower would comprise of a swift call audio system which will play swift calls for a few hours in the morning and evening during the period when swifts are in the UK (between end of April and mid-September). The audio system can be deactivated and removed once swifts are observed nesting in the swift tower.
- 9.16 It is considered, by reason of the distance from the proposed swift tower and neighbouring residential properties, that there is unlikely to be any significant impact upon noise and disturbance. It is considered that further details of the volume and hours of the swift call audio system shall be secured via a planning condition.
- 9.17 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).

#### Biodiversity and Ecology

- 9.18 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.
- 9.19 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.
- 9.20 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.

- 9.21 The proposed swift tower would contain 12 swift apartments and likely to accommodate 24 swifts and their chicks. The proposal is considered to be a positive scheme from an ecological perspective.
- 9.22 The Council's Ecology Officer has raised no objections.
- 9.23 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).

## 10 Conclusion

- 10.1 The application is recommended for APPROVAL subject to planning conditions being imposed.

### **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:

SP/ST 01 Site Location Plan (Received 10/02/2022)  
712 Swift Tower Operation and Maintenance Information (Received 10/02/2022)  
Side View (Received 10/02/2022)  
Section View (Received 10/02/2022)  
J20142/01 Column & Foundation General Arrangement & Notes (Received 10/02/2022)  
J20142/02 Column & Foundation Details (Received 10/02/2022)

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

- (3) The materials and finishes of the external works of the development hereby permitted shall be those specified on the application form and approved plans, or such other materials shall have been approved in writing by the Local Planning Authority, and shall thereafter be retained as such.

**Reason:** To ensure 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 operation of the development hereby permitted, further details of the proposed volume and hours of the swift call audio system shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard neighbouring residential amenities in accordance with Policy DM10 (Design Requirements for New Developments (including House Extensions)) 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.

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