

# Public Document Pack

Legal and Democratic Services



## PLANNING COMMITTEE

Thursday 16 June 2022 at 7.30 pm

Place: Council Chamber - Epsom Town Hall

Link for public online access to this meeting:

<https://attendee.gotowebinar.com/register/5227575681261326859>

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Telephone (Listen only): +44 20 3713 5012, Telephone Access Code: 652-429-775

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 Humphrey Reynolds  
(Chair)  
Councillor Phil Neale (Vice-Chair)  
Councillor Kate Chinn  
Councillor Alex Coley  
Councillor Nigel Collin  
Councillor Neil Dallen

Councillor David Gulland  
Councillor Previn Jagutpal  
Councillor Jan Mason  
Councillor Steven McCormick  
Councillor Lucie McIntyre  
Councillor Peter O'Donovan

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**

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

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

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

## Public information

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

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

A link to the online address for this meeting is provided on the first page of this agenda and on the Council's website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection. A limited number of seats will also be available in the public gallery at the Town Hall. For further information please contact Democratic Services, email: [Democraticservices@epsom-ewell.gov.uk](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 - 18)**

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Planning Committee held on 21 April 2022 (attached) and authorise the Chairman to sign them.

### **3. 3 ROY RICHMOND WAY, EPSOM, SURREY (Pages 19 - 46)**

Demolition and replacement of existing two storey ancillary offices and change of use of existing bus servicing facility (sui generis) to builders merchant (sui generis) for display, sale and storage of building timber and plumbing supplies, plant and tool hire, including outside display and storage along with storage racking with ancillary kitchen joinery showroom, car parking and service arrangements, fencing and associated works.

### **4. 22/00509/RES 24 SOUTH STREET, EPSOM, KT18 7PF (Pages 47 - 54)**

Removal of Condition 4 (Secure Parking of Bicycles) of planning permission 21/00044/FUL.

### **5. PLANNING APPEALS UPDATE (Pages 55 - 60)**

A report setting out the following recent planning appeal decisions which relate to non-householder developments, which have been received by the Planning Service.

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**Minutes of the Meeting of the PLANNING COMMITTEE held at the Council Chamber, Epsom Town Hall on 21 April 2022**

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**PRESENT -**

Councillor Steven McCormick (Chair) Councillor Clive Woodbridge (Vice-Chair);  
Councillors Kate Chinn, Nigel Collin, Neil Dallen, David Gulland, Previn Jagutpal,  
Phil Neale and Humphrey Reynolds

In Attendance:

Absent: Councillor Monica Coleman, Councillor Jan Mason, Councillor Lucie McIntyre  
and Councillor Clive Smithram

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

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**37 DECLARATIONS OF INTEREST**

Declarations of Interest

Councillor Neil Dallen CBE, Other Interest: In the interests of openness and  
transparency, Councillor Neil Dallen declared that he is a member of the Town Ward  
Residents' Association and the Epsom Civic Society, and 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 a member of the Epsom Civic Society, and  
that he is the Borough's Heritage Champion.

Declarations of Interest

Councillor Phil Neale, Other Interest: Item 4 Shadbolt Park, Salisbury Road, Worcester  
Park

In the interests of openness and transparency, Councillor Phil Neale declared that he  
had brought the Application on behalf of the Friends of Shadbolt Park, and that he would  
be leaving the Council Chamber when the item was discussed.

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

**38 MINUTES OF THE PREVIOUS MEETING**

The Minutes of the previous meeting of the Committee held on 10 March 2022 were agreed as a true record and signed by the Chair.

**39 THE WELLS, 3-13 CHURCH STREET, EPSOM**

Description

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

Decision

The Committee received a presentation from the Planning Officer.

Following consideration, the Committee resolved unanimously (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:

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 including delivery times and locations;
- (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).

(17) Prior to the commencement of the development, details of sustainability measures shall be submitted to and approved in writing by the local planning authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials including means of providing the energy requirements of the development from renewable technologies. The development shall be carried out in strict accordance with the approved details prior to the first occupation of the building, shall be maintained as such thereafter and no change shall take place without the prior written consent of the Local Planning Authority.

**Reason:** To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development in accordance with Policy CS6 (Sustainability in New Development) of the LDF Core Strategy (2007).

#### INFORMATIVE(S):

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

(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.

#### 40 SHADBOLT PARK, SALISBURY ROAD, WORCESTER PARK

##### Description

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

##### Decision

The Committee received a presentation from the Planning Officer.

Following consideration, the Committee resolved (7 in favour, 1 against 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:

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.

*The meeting began at 7.30 pm and ended at 8.27 pm*

COUNCILLOR STEVEN MCCORMICK (CHAIR)

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**3 Roy Richmond Way, Epsom, Surrey**

<b>Ward:</b>	<b>Court Ward;</b>
<b>Site:</b>	<b>3 Roy Richmond Way Epsom Surrey KT19 9AF</b>
<b>Application for:</b>	<b>Demolition and replacement of existing two storey ancillary offices and change of use of existing bus servicing facility (sui generis) to builders merchant (sui generis) for display, sale and storage of building timber and plumbing supplies, plant and tool hire, including outside display and storage along with storage racking with ancillary kitchen joinery showroom, car parking and service arrangements, fencing and associated works</b>
<b>Contact Officer:</b>	<b>Gemma Paterson</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/applicationDetails.do?activeTab=documents&keyVal=QYASFN GYLIR00>

**2 Summary**

- 2.1 The application is classified as a major planning application and is referred to Planning Committee in accordance with Epsom and Ewell Borough Council's Scheme of Delegation.

- 2.2 The application seeks planning permission to change the use of the site from a bus servicing facility to a builders merchants with ancillary tool hire and kitchen showrooms, including the erection of a two storey extension to the main warehouse (Warehouse 1) following the demolition of the existing two storey element. The proposal also involves outdoor storage of goods, materials and racking systems up to 5.5 metres in height. The proposal also involves the stopping up of an existing secondary minor access and the installation of perimeter fencing and gates, measuring 2.4 metres in height.
- 2.3 The site is located within a main settlement and within Longmead and Nonsuch Industrial Area. The location of the site is in close proximity to public transport, which offers members of the public a mode of transport other than the private car. The site is therefore in a highly suitable location in sustainable transport terms.
- 2.4 The architectural design of the development is considered to respond sympathetically to the site's surroundings, but with a more contemporary and sustainable context.
- 2.5 The proposed development would not result in a significant increase in traffic generation or result in any issues to highway safety or to the operation of the highway network. The level of vehicle parking proposed within the site would be appropriate and would avoid any unacceptable impact on any existing on-street parking conditions.
- 2.6 The proposal would accord with the Council's policies in relation to employment, design, ecology, surface flooding, land contamination and archaeology. It has also been satisfactorily demonstrated that a development of this scale could be provided on the site that does not have a harmful impact on neighbouring residential amenity.
- 2.7 The Council policies which are most important for determining the application are out-of-date. 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
- 2.8 Overall, there would be no adverse effects to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.

- 2.9     **The application is recommended for APPROVAL subject to the imposition of appropriate planning conditions and informatives.**

### **3       Site description**

- 3.1     The Longmead and Nonsuch Industrial Estates are located to the north of Epsom Town Centre, between the B284 Hook Road and the A24 Epsom Road. They are dissected by the north/ south Waterloo mainline railway line with no direct vehicular access, across the railway line, to each other. The entire Industrial Estate covers an area of approximately 35 hectares.
- 3.2     The Longmead Industrial Estate or Employment Area is located to the west of the railway line and is accessed via the Longmead Road. The site is approximately 20 hectares of industrial and warehouse units varying in size from small start-up units to large storage centres.

### **4       Proposal**

- 4.1     The proposal seeks to change the use of the site from a bus servicing facility to a builders merchant. The proposal also involves the demolition of a two storey element of the main warehouse (Warehouse 1) on site and its replacement with a two storey extension of a larger foot print.
- 4.2     The proposal also involves the provision of external storage area for materials up to 5.5 metres in height, including racking systems
- 4.3     The proposal also involves the stopping up of a minor secondary access to the site.

### **5       Comments from third parties**

- 5.1     The application was advertised by means of letters of notification to 66 neighbouring properties and by the display of a site notice on 03.03.2022. To date, no letters of representation have been received.

### **6       Consultations**

- 6.1     **Environment Agency:** No objections subject to conditions
- 6.2     **Surrey County Highway Authority:** No objections subject to condition
- 6.3     **Lead Local Flood Authority:** No objections subject to conditions
- 6.4     **County Archaeologist:** No objections

6.5 **Council's Contaminated Land Officer:** No objections subject to conditions

6.6 **County Ecologist:** No objection

## 7 **Planning Policy**

### National Policy Planning Framework (NPPF) 2012

Chapter 2 – Achieving Sustainable Development

Chapter 6 – Building a strong, competitive economy

Chapter 7 – Ensuring the vitality of town centres

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 12 – Achieving well design places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

### Core Strategy (2007)

Policy CS1 - General Policy

Policy CS3 - Biodiversity

Policy CS5 - The Built Environment

Policy CS6 - Sustainability in New Developments

Policy CS11 – Employment Provision

Policy CS12 - Infrastructure

Policy CS16 - Managing Transport and Travel

### Development Management Policies Submission 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

Policy DM17 - Land Contamination

Policy DM25 – Development of Employment Premises

Policy DM35 - Transport and New Development

Policy DM36 - Sustainable Transport for New Development

Policy DM37 - Parking Standards

### Supplementary Planning Guidance 2003

- The Employment Land Review (2006)

- The Spatial Economic Growth Strategy (2020)
- The Longmead and Nonsuch Industrial Estates Capacity Study 2018
- Surrey County Council Vehicular Guidance (2018)
- National Design Statement (2019)

## **8 Planning Considerations**

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

- Principle of Development
- Design and Visual Impact
- Impact on Highways and Vehicle Parking
- Impact on Neighbouring Amenity
- Impact on Flood Risk and Surface Water Drainage
- Impact on Land Contamination
- Impact on Biodiversity
- Impact on Archaeology
- Sustainability
- Community Infrastructure Levy (CIL)

## **9 Presumption in Favour of Development**

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

9.2 Paragraph 12 of the NPPF 2021 stipulates that development proposals which accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted.

9.3 Paragraph 11d of the NPPF 2021 is engaged where the Council's policies which are most important for determining the application are out-of-date. The practical application and consequence of this is that unless the site is located in an area or affects an asset of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF 2021 as a whole.

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

## **10 Principle of Development**

- 10.1 Policy 89 of the NPPF 2021 states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 10.2 Policy CS11 of the Core Strategy states that loss of employment land will be resisted in strategic employment areas of the Longmead and Nonsuch Industrial Estate and that regeneration of employment premises and intensification of employment uses will be encouraged within this location.
- 10.3 Policy DM25 of the Development Management Policies Document 2015 seeks to support planning permission for employment developments subject to the following relevant factors being met:
- b) the scale, bulk and appearance of the proposal should be compatible with the character of its surroundings;
  - c) the development must not significantly harm the amenities of nearby occupiers nor cause adverse environmental impact on the surrounding area;
  - d) the scale of development should be compatible with the level of existing or potential public transport accessibility, and the on-street parking situation. Where additional infrastructure is required due to the scale of the development, such a development will be required to fund the necessary infrastructure to support it; and
  - e) the development should comply with the Council's transport, access, servicing, car and cycle parking standards and policies



- 10.4 Policy DM25 of the Development Management Policies Document 2015 continues to state that B2 and larger scale B8 use classes (over 500 sqm) should be located within the Longmead and Nonsuch employment area or on a site with established use rights for these purposes. Industrial, storage and distribution development, and improvement and expansion of such premises will normally be permitted, subject to the above criteria. However, in considering such proposals the Council will take into account the need, if any, to improve the physical environment of the area.
- 10.5 The Council's Longmead and Nonsuch Industrial Estates Capacity Study 2018 which acknowledges that there are a diverse range of employment uses and identifies the site as a Sui Generis use and that most of the sui-generis uses in the Longmead Industrial Estate falls into the category of being either uses which are a mix of B2 (General Industrial) or B8 (Storage and Distribution) but have a greater retail focus (such as trade counters).
- 10.6 The Longmead and Nonsuch Industrial Estates Capacity Study 2018 emphasises that these sui-generis (Mixed B2 and B8) uses retain a strong employment focus and make a valuable contribution to the economic vitality and viability of the Borough.
- 10.7 The site lies within the Longmead Employment Area as designated on the Proposal Maps. The previous use on the site is a bus servicing facility comprising a main workshop, bus storage area, offices and a vehicle wash. The existing use attracts an element of employment.
- 10.8 The proposed builders merchant use would retain an element of employment as well as introducing an element of retail use to the site. The proposed use would site comfortably within the site, which also feature a builder's merchants at 2 Roy Richmond Way and a plumbing merchants further south at Units 1 & 2 Feldstead Road. Other similar uses such as a Flooring Sales, Hardware Store and Kitchen Sales are within the local surrounding vicinity.
- 10.9 The principle of the proposed change of use of the site could therefore be considered acceptable within the Longmead Employment Area, subject to meeting the relevant criteria of Policy DM25 of the Development Management Policies Document 2015, which will be assessed further on in this report.

**11 Design and Visual Impact**

- 11.1 The NPPF 2021 attaches great importance to the design of the built environment. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 11.2 Paragraph 130 of the NPPF 2021 states [inter alia] that developments should function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history.
- 11.3 Paragraph 3.7.5 of the Core Strategy 2007 sets out that new development should enhance and complement local character and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm, and which positively contributes to the townscape.
- 11.4 Policy DM10 of the Development Management Policies Document 2015 states [inter alia] that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:
- Prevailing development typology, including house type, sizes, and occupancy;
  - Prevailing density of the surrounding area;
  - Scale, layout, height, form, massing;
  - Plot width and format which includes spaces between buildings;
  - Building line build up, set back, and front boundary; and
  - Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.
- 11.5 The proposal would result in the demolition of an existing two storey element and single storey lean to located to the south of the main warehouse on site (Warehouse 1) and their replacement with a new two storey extension that would have a footprint 152m<sup>2</sup> greater than the existing elements lost.

- 11.6 The proposed two storey extension is considered to be acceptable in overall scale and design, appearing proportional to the form of the main building. The ridge of the proposed two storey extension would be set down slightly from the ridge of the main ridge and the elevation has been set in from the east side elevation of the main building, thereby achieving an element of subservience.
- 11.7 The proposal also introduces external retail storage to the site, up to 5.5 metres in height, including racking systems. However, the site has been used for the external storage in the past, containing a number of coaches and buses, which includes double decker buses. The use of the site for the external storage for building materials would not be incongruous, particularly when taking into consideration the scale and siting of the building material/storage racking systems of a similar scale that are highly prominent within the street scene at the builders merchant at 2 Roy Richmond Way.
- 11.8 Although there would be opportunities to view the external storage areas/racking systems associated with the proposal development from the main Roy Richmond street scene through the entrance of the site and through the access to the sewage works site, located to the south west of the site, such views would not appear out of character with the surroundings.
- 11.9 Views of the proposed external storage/racking system may also be gained from both the land associated with The Kings Church and via footpath 46, which connects the site to West Street, such views would not be incongruous with the commercial use of the site and the wider industrial area.
- 11.10 Similarly, whilst the proposed two storey extension to the existing warehouse would be a highly visible feature within the street scene as a result of its orientation within the site, it would be a subservient feature that would not appear out of keeping with the character of the area.
- 11.11 The proposal to change the colour of the main building to the operators' corporate colours would not be unusual and given the diversity in the materials and colours of the surrounding units, the proposal would complement the varied built form in the locale.
- 11.12 The proposed 2.4 metres high perimeter fence and gates would replace an existing 1.5 metre high black post and rail fence and a small Leylandii hedge. Although the loss of this small area of hedging is disappointing, as it provides a small softening to the utilitarian nature of the street scene, its loss is not harmful to the street scene and the replacement fence would be in keeping with the boundary treatment in the surrounding area.

- 11.13 Officers are therefore satisfied that the proposal development would be compatible with the character of its surroundings, in accordance with Policy DM10 and criterion (b) of Policy DM12 of the Development Management Policies Document 2015.

## **12 Impact on Highways and Vehicle Parking**

- 12.1 Paragraph 111 of the NPPF 2021 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 12.2 Policy CS16 (Managing Transport and Travel) of the Core Strategy 2007 encourages development proposals that foster an improved and integrated transport network and facilitate a shift of emphasis to non-car modes as a means of access to services and facilities.
- 12.3 Furthermore, this policy stipulates that development proposals must ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, not materially increase other traffic problems.
- 12.4 The application is accompanied by a Transport Statement, prepared by Cotswold Transport Planning, reference 21-0315 and dated May 2021 and a Transport Statement Addendum, also prepared by Cotswold Transport Planning, reference 21-0315 (Issue 01) and dated March 2022.
- 12.5 The existing highway network surrounding the site comprises Roy Richmond Way, which is a single carriage way subject to a 30 mph speed limit and benefits from street lighting and footpaths.
- 12.6 The junction of Roy Richmond Way and Longmead Road lies to the west of the site, which connects to the B2200 to the north and the B284 to the south.
- 12.7 Public Footpath 46 runs down the east of the site, connecting the Roy Richmond Way to West Street, which lies over the railway line. There are no identified cycle routes within the vicinity.
- 12.8 The Transport Statement has provided an analysis of the Personal Injury Accident data for the most recent five year period available for the highway network in the vicinity of the site, which has concluded that there have been no reported personal injury collisions during this period, suggesting that there are no existing problem within the layout of the surrounding highway network that may be affected by the traffic movements generated by the proposed development

- 12.9 Although the site can be considered to be in a sustainable location with good links to regular public transport and pedestrian links, given the nature of the goods that would be available at the site, it is likely that the majority of trips by customers would be carried out in a private vehicle.
- 12.10 However, there would be genuine alternatives to the private car for employees to travel to the site.
- 12.11 The existing use is able to attract a vehicle trip generation. However, as the site is currently unoccupied, it is not possible to demonstrate the current trip generation of the site. Instead, the Transport Addendum predicts the traffic generation of the existing use by carrying out a bespoke assessment of a similar bus servicing facility.
- 12.12 In order to predict the traffic generation associated with the proposed development, the Transport Statement advises that TRICS (Trip Rate Information Computer System) database has been used, using sites that are similar in characteristics with the existing use and the proposed development. These similar characteristics for the proposed use also include kitchen showroom and tool/machinery hire.
- 12.13 The bespoke assessment estimates that the existing use of the site as a bus servicing facility would generate 28 trips during the AM and PM peak hours, when the traffic levels would be higher, and the local highway network would therefore be operating closer to capacity.
- 12.14 Although the business model for the future operator of the site attributes the majority of sales to profession trade account customers, the operation does attract customers from the general public. Using this business model, the TRICS database estimates that the proposed would be likely to generate 30 trips during the AM and PM peak hours, when the traffic levels would be higher, and the local highway network would therefore be operating closer to capacity.
- 12.15 The County Highway Authority is satisfied that the bespoke assessment and the TRICS assessment undertaken and reported within the Transport Statement provides a robust and realistic assessment of the likely impact of the proposed development on the highway network and that the residual cumulative impacts of the development would not have a material impact on the capacity of the surrounding network.
- 12.16 The proposal involves the stopping up of the existing far eastern access to the site and the reinstatement of any kerbs, verge, or footway.

- 12.17 The County Highway Authority have raised no objection against the proposed development in terms of impact on the operation of the network or highway safety, subject to conditions, in the event that permission is granted, to secure a Construction Transport Management Plan and to ensure that the proposed visibility splays are constructed in accordance with any approved plans and to ensure that that prior to the use commencing, a Travel Plan is secured, as well as the reinstatement of any kerbs, verge, or footway, following the closure of the existing access.
- 12.18 Policy DM37 of the Development Management Policies Document 2015 seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.
- 12.19 The proposed development would provide 31 vehicle parking spaces comprising 18 customer parking spaces, 12 staff parking spaces and one disabled user bay. Customer parking bays would be provided at a larger size in order to account for trade vehicles.
- 12.20 The Council does not have parking standards for commercial uses and the Surrey County Council Vehicular and Cycle Parking Guidance 2018 requires an individual assessment for parking levels in respect of sui-generis uses.
- 12.21 The future operator of the site has a good understanding of the site requirements and having based the proposed level of parking against that at various similar operator branches across the UK, is satisfied that the level of parking proposed at the site is suitable for the operation proposed and suitable to accommodate the predicted traffic demand.
- 12.22 The proposed development would provide cycling facilities for the secure storage of 10 cycles, which are likely to be of more benefit to the staff, given the nature of the bulky good to be sold from the site.
- 12.23 The County Highway Authority has reviewed the individual parking assessment and subject to conditions to ensure that the vehicle parking are constructed in accordance with any approved plans and that that prior to the use commencing, details of Electric Vehicle Charging Points are secured, in the event permission is granted, considers that the level of vehicle parking provided on site would be appropriate to prevent and adverse impact on the operation of the network or highway safety and to avoid any unacceptable impact on any existing on-street parking conditions.

- 12.24 The proposal is therefore considered to accord with criteria (d) and (e) of Policy DM24 and DM37 of the Development Management Policies Document 2015.

### **13 Impact on Neighbouring Amenity**

- 13.1 Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policy Document 2015 sets out that development proposals will be required to incorporate principles of good design. Development proposals should also have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance.
- 13.2 The site is located within a complex of industrial buildings and at a sufficient distance of over 85 metres from residential properties to cause any issues pertaining to neighbouring amenity.
- 13.3 The proposal would therefore accord with Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policy Document 2015 and the guidance set out in the Council's Residential Infill Development SPG 2003.

### **14 Impact on Flood Risk and Surface Water Drainage**

- 14.1 Paragraph 167 of the NPPF 2021 states that when determining any planning applications, LPAs should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.
- 14.2 Paragraph 169 of the NPPF 2021 sets out that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
  - b) have appropriate proposed minimum operational standards;
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
  - d) where possible, provide multifunctional benefits.
- 14.3 Policy CS6 of the Core Strategy 2007 states that proposals for development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change. In order to conserve natural resources, minimise waste and encourage recycling, the Council will ensure that new development [inter alia] avoids increasing the risk of, or from flooding.

- 14.4 Policy DM19 of the Development Management Policies Document 2015 states that the Council will expect development to reduce the volume and rate of surface water run-off through the incorporation of appropriately designed Sustainable Drainage Systems (SuDs) at a level appropriate to the scale and type of development.
- 14.5 The majority of the site is located in an area of low flood risk, outside of Flood Zone 2 and 3 as identified on the Environment Agency Flood Risk Maps. However, a very minor section of Flood Zone 2 does extend into the site on the west boundary and the site does fall within a Critical Drainage Area as identified within the Council's Strategic Flood Risk Assessment 2018. Notwithstanding this, the application does not have the benefit of being supported by a Flood Risk Assessment.
- 14.6 In terms of fluvial flooding, the majority of the site therefore the proposed development, would be wholly in Flood Zone 1. A very small proportion of Flood Zone 2 would extend into the periphery of the site but taking into consideration that the existing use and the proposed use are not vulnerable uses, the level of built form and hard surfacing would remain similar to that on site and the level of hard surfacing would remain as existing in the small area of Flood Zone under this permission, Officers are satisfied that the development would have a low risk of fluvial flooding. Furthermore, the access to the site is also located within Flood Zone 1 and would continue unimpeded to provide safe access to and from the residential developments in the event of a flood.
- 14.7 As the proposed development would lie within Flood Zone 1, neither the sequential test nor the exceptions test, as set out in the Governments guidance 'Flood risk assessment: the sequential test for applicants' 2017 needs to be carried out
- 14.8 With respect to pluvial flooding, the surface water run off from the site would be managed via the existing watercourse. The Lead Local Flood Authority has recommended that, if permission is granted, a pre-commencement condition is imposed to secure full details of the proposed surface water mitigation for site.
- 14.9 Subject to the recommended condition in the event permission is granted, it is considered that the flood risk and surface water flooding have been addressed in accordance with Policy CS6 of the Core Strategy 2007, Policy DM19 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.



**15 Impact on Land Contamination**

- 15.1 Paragraph 183 of the NPPF 2021 states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 15.2 Paragraph 184 of the NPPF 2021 continues where a site is affected by contamination issues, responsibility for securing a safe development rests with the developer and/or landowner in accordance with paragraph 179 of the NPPF 2021.
- 15.3 Policy DM17 of the Development Management Policies Document 2015 states [inter alia] that where it is considered that land may be affected by contamination, planning permission will only be granted if it is demonstrated that the developed site will be suitable for the proposed use without the risk from contaminants to people, buildings, services or the environment including the apparatus of statutory undertakers.
- 15.4 The site lies in potentially contaminated land. As such, both the Environment Agency and the Council's Contaminated Land Officer has recommended contamination conditions, in the event permission is granted, in order to ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.
- 15.5 Subject to these conditions in the event permission is granted, the proposal is considered to accord with Policy DM17 (of the Development Management Policies Document (2015) and the requirements of the NPPF 2021.

**16 Impact on Biodiversity**

- 16.1 The Local Planning Authority have a duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 16.2 Paragraph 180 of the NPPF 2021 states (inter alia) that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

- 16.3 Policy CS3 (Biodiversity and Nature Conservation Areas) of the Core Strategy (2007) sets out that development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 16.4 Policy DM4 (Biodiversity and New Development) of the Development Management Policies Document (2015) seeks to ensure that new development takes every opportunity to enhance the nature conservation potential of a site and secure a net benefit to biodiversity. It sets out that development affecting any site or building that supports species protected by Law including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.
- 16.5 The Council's Ecologist has acknowledged that the site has no biodiversity interest. Notwithstanding this, In order to provide some biodiversity enhancements at the site, in accordance with the requirements set out in Policy DM4 of the Development Management Policies Document 2015 and paragraph 180 of the NPPF 2021, in the event that planning permission is granted, it is considered reasonable to secure the installation of bird nesting boxes at the site, prior to the commencement of the operation on site.
- 16.6 Officers acknowledge that the proposal result in the loss of a small Leylandii hedge. However, this loss is considered to be more than offset by the biodiversity enhancements proposed at the site, particularly given that the Council has control of where these can be located within the site, which may be areas more suitable for birds than adjacent to the highway and the vehicular entrance to the site.
- 16.7 Subject to the abovementioned condition should permission be granted; the Local Planning Authority are satisfied that they have carried out their duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect the species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 16.8 The proposal would not prejudice the existing ecological value of the site and would enhance the conservation potential of a site in accordance with Policy CS3 of the Core Strategy 2007, Policy DM4 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

**17 Impact on Archaeology**

- 17.1 Paragraph 194 of the NPPF 2021 states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 17.2 Policy CS5 (Conserving and Enhancing the Quality of the Built Environment) of the Core Strategy (2007) sets out that the Council will protect and seek to enhance the Borough's heritage assets including (inter alia) archaeological remains. The settings of these assets will be protected and enhanced.
- 17.3 Policy DM8 (Heritage Assets) of the Development Management Policies Document (2015) seeks to resist the loss of Heritage Assets and instead promote the opportunity to conserve and enhance these. Specifically, on any major development site of 0.4ha or greater, applicants are required to undertake prior assessment of the possible archaeological significance of a site and the implications of the proposals.
- 17.4 Although the application is not supported by any archaeological information, as required by paragraph 194 of the NPPF 2021, the County Archaeological Officer has reviewed the scheme and, given the limited ground impacts and the nature of the site, is satisfied that the proposal does not represent significant risk to any unknown heritage assets.
- 17.5 In light of the above, Officers are satisfied that there would be no adverse archaeological implications and the proposal would accord with Policy CS5 of the Core Strategy (2007), Policy DM8 of the Development Management Policies Document (2015) and the requirements of the NPPF 2021.

**18 Sustainability**

- 18.1 Policy CS6 of the Core Strategy 2007 states [inter alia] that development should result in a sustainable environment and ensure that new development minimises the use of energy in the scheme, minimises the emission of pollutants into the wider environment, minimises the energy requirements of construction and incorporates waste management processes.
- 18.2 Drawing Number 8179/05 Rev B identifies that the proposed two storey extension to Warehouse 1 would incorporate a solar photovoltaic system. As such, it is considered that the proposal would be able to secure a sustainable development outcome and would therefore accord with Policy CS6 of the Core Strategy 2007

**19 Community Infrastructure Levy (CIL)**

- 19.1 The proposal will be CIL liable.

**20 Planning Balance**

- 20.1 As the Council policies which are most important for determining the application are out-of-date, paragraph 11 (d) of the NPPF 2021 is engaged. There are no footnote 8 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied.
- 20.2 The presumption is therefore to grant permission for sustainable development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.
- 20.3 The proposal would create short term economic benefits during the construction period and long term employment benefits through the provision of the sui-generis use. Furthermore, the proposed development would create more long-term benefits to the local economy due to the increased spending in the area. This is a significant benefit of the scheme.
- 20.4 The proposal would accord with the Council's policies in relation to employment, design, ecology, surface flooding, land contamination and archaeology. It has also been satisfactorily demonstrated that a development of this scale could be provided on the site that does not have a harmful impact on neighbouring residential amenity.
- 20.5 Overall, there are no adverse effects in respect of this application, that would otherwise significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted. The application is therefore recommended for approval.

**21 Recommendation**

That subject to the conditions and informatives set out below **PERMISSION IS GRANTED**

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 and reports:

Drawing Number 8179\_LP  
Drawing Number 8179/05 Rev B  
Drawing Number 8179/06 Rev B  
Drawing Number 8179/08\_03 Rev B

Reason: For the avoidance of doubt and in the interests of proper planning as required by Policy CS5 of the Core Strategy (2007).

3. The materials and finishes of the development hereby permitted shall match those of the existing dwelling unless otherwise approved in writing by the Local Planning Authority.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM8, DM9 and DM10 of the Development Management Policies (2015).

4. No part of the development shall be first occupied unless and until the proposed modified vehicular accesses to Roy Richmond Way have been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1000mm high.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

5. 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 and cycles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. All cycle parking shall be secure, covered and lit. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the

NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

6. 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) on-site turning for construction vehicles

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 for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015) and Policy CS16 of the Core Strategy (2007).

7. The development hereby approved shall not commence trading until 20% of the proposed car parking spaces are provided and fitted with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) and another 20% of spaces are to be provided with the power supply to provide additional fast charge sockets and thereafter retained and maintained to the satisfaction of the local planning authority.

Reasons: In recognition of Section 9 'Promoting Sustainable Transport' in the National Planning Policy Framework 2019 to meet the objectives of the NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

8. The development hereby approved shall not commence trading until the existing eastern access from the site to Roy Richmond Way has been permanently closed and any kerbs, verge, footway, fully reinstated.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the

NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

9. The development hereby approved shall not commence trading until a Travel Plan is submitted for the written approval of the Local Planning Authority in accordance with the sustainable development aims and objectives of the National Planning Policy Framework, Surrey County Council's "Travel Plans Good Practice Guide", and in general accordance with the 'Framework Travel Plan' document. The approved Travel Plan shall be implemented on first trading and for each and every subsequent trading of the development, thereafter maintained and developed to the satisfaction of the Local Planning Authority.

Reasons: In recognition of Section 9 'Promoting Sustainable Transport' in the National Planning Policy Framework 2019 to meet the objectives of the NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

10. The application will be required to enter into a Section 278 agreement with the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF (2021), and to satisfy policies DM35 and DM36 of the Development Management Policies (2015).

11. The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the NPPF and the accompanying PPG.

Reason: To ensure that the principles of sustainable drainage are incorporated into the development and to reduce the impact of flooding in accordance with Policy CS6 of the Epsom and Ewell Core Strategy (2007) and Policy DM19 of the Development Management Policies 2015

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the NPPF and Policy CS 6 of the Epsom and Ewell Core Strategy (2007).

13. The development hereby permitted shall not be commenced until such time as a schemes to install oil and petrol separators have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved. The scheme shall:
- a) be designed and constructed to have a capacity compatible with the area being drained.
  - b) be installed prior to the occupation of the development and thereafter maintained for the lifetime of the development.

Reason: To ensure the proposed development does not have a negative impact on the Water Framework Directive (WFD) status of the nearby Green Lane Stream Main River.

14. The development hereby permitted shall not be commenced until such time as a schemes to dispose of foul and surface water have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure the proposed development does not have a negative impact on the Water Framework Directive (WFD) status of the nearby Green Lane Stream main river. This is in line with Paragraph 174 of the NPPF and Policy CS6 of the Epsom and Ewell Core Strategy (2007).

15. Following any necessary demolition and prior to the commencement of any further development, the following shall be undertaken in accordance with current best practice guidance:
- i. a desk study, 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 results of the investigation and risk assessment shall be submitted to and approved by the Local Planning Authority; and



- ii. if ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management measures shall be designed and submitted to the Local Planning Authority for approval.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document (2015).

16. Prior to the commencement of trading on site, the approved remediation scheme prepared under Condition 15 must be carried out in accordance with its terms. Following completion, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document (2015).

17. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. In that event, an investigation and risk assessment must be undertaken and where remediation is deemed necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document (2015).

### **Informatives**

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. The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:
  - carry out work to an existing party wall;
  - build on the boundary with a neighbouring property;
  - in some circumstances, carry out groundwork's within 6 metres of an adjoining building.

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

4. The permission hereby granted shall not be construed as authority to carry out any works 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/floodingadvice](http://www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/floodingadvice).
5. 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).

6. The developer is advised that as part of the detailed design of the highway works required by the above condition(s), the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.
7. Section 59 of the Highways Act 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.
8. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to: <http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector types.
9. Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".
10. The Environment Agency agree with the recommendation to remove all USTs and that a watching brief and relevant validation sampling should be undertaken during excavation of below ground tanks and any pipework.
11. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- Excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution treated materials can be transferred between sites as part of a hub and cluster project formally agreed with the EA some naturally occurring clean material can be transferred directly between sites.
  - Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
12. The Environment Agency recommends that developers should refer to:
- The Position statement on the Definition of Waste: Development Industry Code of Practice and;
  - The Environmental regulations page on GOV.UK
13. Any re-use of excavated materials not undertaken formally using the CLAIRE DoWCoP would require an environmental permit for deposit, unless materials are solely aggregates from virgin sources, or from a fully compliant Quality Protocol aggregates supplier. Any deposit of materials outside of these scenarios could be subject to enforcement actions and/or landfill tax liabilities.
14. Contaminated materials/soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:
- Duty of Care Regulations 1991
  - Hazardous Waste (England and Wales) Regulations 2005
  - Environmental Permitting (England and Wales) Regulations 2016
  - The Waste (England and Wales) Regulations 2011
15. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

16. If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the hazardous waste pages on [gov.uk](https://www.gov.uk) for more information.

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**24 South Street, Epsom, KT18 7PF**

<b>Ward:</b>	<b>Town Ward;</b>
<b>Site:</b>	<b>24 South Street Epsom KT18 7PF</b>
<b>Application for:</b>	<b>Removal of Condition 4 (Secure Parking of Bicycles) of planning permission 21/00044/FUL</b>
<b>Contact Officer:</b>	<b>Gemma Paterson</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/applicationDetails.do?activeTab=documents&keyVal=RAN2X0GYFXH00>

**2 Summary**

- 2.1 This application is referred to the planning committee in accordance with the Scheme of Delegation as the applicant is the Council.
- 2.2 Members may recall the original application at the site for the conversion of the three storey office building into a commercial unit at ground floor and 2 no. one bedroom flats on the first and second floor (21/00044/FUL) being granted by Members at the 01 April 2021 Planning Committee.
- 2.3 Members granted permission for the application subject to a number of planning conditions. Pertinent to this current application is condition 4 which restricts occupation of the proposed flats until facilities for the secure parking of bicycles within the development site have been provided in accordance with the approved plans

2.4 However, the constraints of the site have demonstrated that it is not physically feasible to accommodate the requested secure cycle parking facilities either externally or internally to the site.

2.5 Furthermore, Officers have given significant weight to the location of the site, which is in a sustainable town centre location with genuine transport alternatives to the private car that are easily accessible to the site.

**2.6 The application to remove condition 4 from planning application 21/00044/FUL is recommended for APPROVAL.**

### **3 Site description**

3.1 The site lies to the west side of South Street and was previously used as a youth centre and offices for Surrey County Council.

### **4 Proposal**

4.1 The application seeks to remove condition 4 of planning application 21/00044/FUL, which restricts occupation of the proposed flats until facilities for the secure parking of bicycles within the development site have been provided in accordance with the approved plans

### **5 Comments from third parties**

5.1 The application was advertised by means of letters of notification to 16 neighbouring properties. A site notice was displayed on 26 May 2022 and the application was published in the press. To date, there have been no representations on this application.

### **6 Consultations**

6.1 None

### **7 Relevant Planning History**



Application	Application detail	Decision
21/00044/FUL	Conversion of the 3 storey office building into 2 one-bedroom dwellings on the first and second floor and commercial unit on the ground floor	GRANTED 10.05.2021

## 8 Planning Policy

### National Policy Planning Framework (NPPF) 2012

Chapter 2 – Achieving Sustainable Development

Chapter 9 – Promoting Sustainable Transport

### Core Strategy 2007

Policy CS16 - Managing Transport and Travel

### Development Management Policies Document 2017

Policy DM37 - Parking Standards

### Supplementary Planning Guidance 2003

- Parking Standards for Residential Development SPD (2015)
- Surrey County Council Vehicular and Cycle Parking Guidance (2018)

## 9 Planning considerations

- 9.1 Section 73a for the ‘determination of applications to develop land without compliance with conditions previously attached’. It only provides for the variation of conditions attached to an existing planning permission; it does not provide a means of varying the development permitted (other than through the imposition of new/varied conditions).
- 9.2 The principle of the development has already been established under planning application 21/00044/FUL and as such, the main planning consideration in determining this application relates to the national and local promotion of sustainable transport.

- 9.3 Pertinent to this current application is condition 4 which reads as follows:

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

Reason: The above condition is required in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework and Policy DM37 of the Development Management Plan’.

- 9.4 Condition 4 was recommended by the County Highway Authority in order to promote the use of sustainable transportation for future occupiers of the two new flats.
- 9.5 However, it is clear from the Officers Report that accompanied planning application 21/00044/FUL that the site does not benefit from any residential curtilage and that furthermore, paragraph 12.8 of the Officers Report for 21/00044/FUL recognised that the site was so constrained, that there was no room within the site to accommodate for the external provision for refuse and recycle storage.
- 9.6 Although the proposed internal living space proposed within the flats exceeds the National Standards for 1 bedroom, 1 person flats by 5m<sup>2</sup>, both flats are above ground floor level and require access via a staircase. Furthermore, given their constrained internal layout, it is not possible to provide any cycle storage facilities within the internal living accommodation associated with the site.
- 9.7 Therefore, facilities for the secure parking of bicycles cannot physically be provided either internally or externally within the site. Furthermore, cycle storage could not be provided on the public footpath outside of the site as this is too narrow to accommodate both pedestrians and any form of secure cycle storage.
- 9.8 Paragraph 55 of the NPPF 2021 makes clear that planning conditions should be kept to a minimum, and only used where they satisfy a number of tests. Two of these tests requires planning conditions to be ‘enforceable’ and ‘reasonable in all other respects’.

- 9.9 Officers are of the opinion that it is unreasonable to impose a planning condition to secure cycle storage facilities on the site where there is no space to accommodate them. Furthermore, as there is no space within the site to install such facilities, the applicant cannot reasonably discharge the condition and as a results of the reasons the applicant is unable to do so, the breach of the condition becomes unenforceable.
- 9.10 The site is in a highly sustainable town centre location with easy access to public transportation. Although there may not be provision within the site to provide secure cycle parking facilities, future occupiers would still have a genuine choice of sustainable travel other than the private car, within easy access of the site. Furthermore, there are existing, uncovered cycle racks located on High Street, a minute walking distance from the site, should future occupiers wish to park a bike close to the site in future.
- 9.11 Given the constraints of the site and in considering that the site is in a highly sustainable area, Officers are satisfied that the site continues to promote both National and Local policy on sustainable transport choices, in accordance with Section 9 of the NPPF 2021.

## **10 Recommendation**

- 10.1 The application to remove condition 4 from planning application 21/00044/FUL recommended for APPROVAL subject to the following conditions:

1. The development hereby permitted shall be commenced within three years from the date of the decision of planning application 21/00044/FUL.

Reason: To comply with Section 91 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 strict accordance with the approved drawings associated with planning application 21/00044/FUL.

24SSRP002/2 Proposed plans

24SSRP002/4 Proposed elevations

24SSRP002/6 Proposed elevations and roof plan

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

3. The development hereby permitted shall be constructed entirely of the materials as detailed on the schedule of materials on the planning application form associated with 21/00044/FUL

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM8, DM9 and DM10 of the Development Management Policies 2015.

4. Soundproofing shall be provided to ensure that the flats for residential purposes sharing a party element with the ground floor premises to which this planning permission relates shall receive a minimum airborne sound insulation on the party element which achieves DnT'w of 60 dB before the first use of the development hereby approved. The soundproofing shall be retained thereafter in perpetuity.

REASON: To ensure that the occupiers of the flat units do not suffer a loss of amenity by reason of noise nuisance and other excess noise from activities within the premises in the National Planning Policy Framework 2019 and Policy DM10 of the Development Management Policies Document 2015.

Informatives:

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. The applicant is advised of the following with regard to waste servicing:
  - All new tenants will need to be advised of the limited waste collection service:
  - Collections will be for refuse and mixed recycling (in separate sacks) only.
  - On collection days, sacks must be left out for collection on the pavement in front of the building from 6.30am.
  - Sacks must not be left on the pavement in between collections.
  - For domestic occupants collections will take place once a week.

- For trade occupants, collections frequency will be negotiable, with the cost reflecting the frequency as per the Council's prevailing fees and charges.

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### Planning Appeals Update

<b>Ward</b>	<b>(All Wards)</b>
<b>Contact officer</b>	<b>Justin Turvey</b>

Report prepared by Justin Turvey (Planning Development & Enforcement Manager).

The Planning Service has received the following recent planning appeal decisions which relate to non-householder developments.

### Summary of Appeal Decisions:

Item 1	Site Address	Planning Reference	Description of Development	Decision and Costs
1	9 Cudas Close, Epsom	21/00076/FUL	Erection of one 3-bedroom detached house including associated external works and parking	Dismissed
		21/00518/OUT	Erection of two 2-bedroom semi-detached houses including associated external works and parking	Dismissed
2	45 Upper High Street, Epsom	21/00555/ADV	Application for advertisement consent - '5200mm x 750mm fascia sign'.	Allowed
3	29 & 31 Waterloo Road, Epsom	21/00903/OUT	Erection of 2 x 3 bedroom flats, 4 x 2 bedroom flats and 2 x 1 bedroom flats and associated external works following demolition of the existing building (landscaping reserved)	Allowed
4	Garages rear of 52 Curtis Road, Epsom	20/01883/FUL	Erection of 4 x two-bedroom flats and 2 x one bedroom flats.	Dismissed
5	Garages 1-19, Ebbisham Road, Epsom	20/01882/FUL	Erection of 4 x two-bedroom dwellings	Allowed

### Summary of Issues:

#### 1. 9 Cudas Close, Epsom

Two appeals were submitted relating to proposals for 1 house (Full permission) and 2 houses (Outline permission). The Inspector considered that the two appeals were similar in nature and considered them together in a single decision notice. In both appeals, the Inspector believed that the main issues were i) backland character ii) impact upon the amenity space and privacy of the original dwelling iii) impact upon character and appearance of the area and iv) impact upon adjoining dwellings.

In relation to the backland nature of the development, the Inspector found that given the position of the site at the end of a cul-de-sac, and that the developments would continue the linear nature of housing along the street, both schemes would only be in minor conflict with the aims of the Council's policy in respect of backland development and gave this limited negative weight.

Considering the impact upon the amenity of the host dwelling, the Inspector found that both schemes would leave the property with adequate amenity space and would not be unacceptable in terms of privacy.

However, the Inspector considered that in both schemes, the overall scale of development and its contrasting appearance, they would not sit comfortably within the plot and would be harmful to the character and appearance of the area.

The Inspector did consider the impact of the schemes on the amenity of neighbouring properties, but found there to be no harm. Representations from local residents in respect of parking, noise and disturbance, construction issues and tree impact were all considered by the Inspector, who felt there was either no harm, or that any harm could be adequately controlled through conditions were the schemes allowed.

## **2. 45 Upper High Street, Epsom**

The main issue was the effect of the advertisement (signage above the shopfront) on visual amenity. The Inspector found that the advertisement was typical of the area and would not be harmful to the character or appearance of the Conservation Area. The appeal was therefore allowed.

## **3. 29 & 31 Waterloo Road, Epsom**

The main issues were i) the effect of the development upon the character and appearance of the area and ii) living conditions of future occupiers of the development.

In relation to character and appearance, the Inspector considered that there was a mix of styles and sizes of property within the area and that a larger building would be appropriate for this corner plot. He felt that it would enhance the area, rather than be out of keeping as the Council had argued.

In relation to private amenity space, the Inspector felt that the shortfall was justified given the constraints of the site, its edge of town centre location and the proximity of local parks and play space. The Inspector did feel that the poor outlook for one of the units counted against the scheme, but that overall this was a minor negative impact which prospective occupants would be aware of if they intended to purchase the unit. Taking into account the presumption in favour of sustainable development, the Inspector considered that the adverse impacts of the scheme did not outweigh its benefits and it should therefore be approved.



#### **4. Garages rear of 52 Curtis Road, Epsom**

The main issues were i) the suitability of the development on the site ii) the housing mix and iii) impact on trees.

The Inspector found that the site was appropriate for residential development in principle; however, the incongruous design, orientation of the building, lack of space around the building and neighbour impact meant that the scheme was not appropriate for the site. In relation to mix and overall number of units, the Inspector considered that the proposal represented an overdevelopment of the site.

Information was submitted by the appellant in relation to trees during the appeal. As the Inspector found the proposal unacceptable on other grounds, he did not consider it necessary to delay the decision to await technical evidence from the Council but noted that the proposed layout of the scheme would result in pressure from future occupants to undertake works to nearby trees that would result in harm.

#### **5. Garages 1-19, Ebbisham Road, Epsom**

The Inspector considered that the main issue was the impact of the scheme on highway safety through free flow of traffic and adequate access to the site.

The Inspector considered that it was unlikely a refuse vehicle would enter the site and although the collection distance from the highway for refuse vehicles was in excess of 'Manual for Streets' guidance, this was by a marginal amount and residents could bring their refuse closer to the collection point if necessary. The Inspector did not consider that a refuse vehicle stopping to collect in either arrangement would be unacceptable in terms of the free flow of traffic. The Inspector considered that although the parking and turning area within the site was tight, it could be accessed by small delivery vehicles. Taking into account the presumption in favour of sustainable development, the Inspector considered that the small impact on the free flow of traffic and convenience of road users would not outweigh the benefits of the scheme. The appeal was therefore allowed.

**Summary of Pending Appeals:**

Site Address	Appeal/LPA Reference	Description of Development	Grounds	Status
22-24 Dorking Road, Epsom, Surrey, KT18 7LX	Appeal Ref: 3264154 LPA Ref: 19/01365/FUL	Demolition of existing houses and erection of a part two, part three storey building with rooms in the roof and basement providing 20 flats. Basement parking for cars and cycles. Bins stores and associated hard and soft landscaping including new boundary walls and railings. (Amended scheme received 6 May 2020)	Committee Refusal	Received: 02.12.2020  Valid 29.07.2021  Started: 29.07.2021
Swilcan, 11B Richmond Crescent, Epsom Surrey, KT19 8JA	Appeal Ref: 3279955 LPA Ref: 21/00067/FLH	Single storey front extension with pitched roof forming new front door entrance.	Delegated Refusal	Received: 29.07.2021
6 The Grove, Epsom, Surrey, KT17 4DQ	Appeal Ref: 3279703 LPA Ref: 20/01855/FUL	Erection of 7 x two bedrooms flats and 2 x three bedrooms flats and associated external works following demolition of the existing building.	Delegated Refusal	Received: 26.07.2021
Garages 1-6, Westmorland Close, Epsom,	Appeal Ref: 3279685 LPA Ref: 20/01758/FUL	Erection of two storey building to create 2 x two bedroom flats.	Non-determination	Received: 26.07.2021
Garages 8-11, Westmorland Close, Epsom	Appeal Ref: 3279684 LPA Ref: 20/01759/FUL	Erection of two storey building to create 2 x two bedroom flats.	Non-determination	Received: 26.07.2021
Garages 1-7, Somerset Close, Epsom, Surrey	Appeal Ref: 3279683 LPA Ref: 20/01760/FUL	Erection of two storey building to create 2 x two bedroom flats.	Non-determination	Received: 26.07.2021
Milroys, 1 Corner House Parade, Epsom Road, Ewell, Surrey, KT17 1NX	Appeal Ref: 3271131 LPA Ref: 20/01538/FUL	Proposed extension to side of shop (over existing timber decked seating area).	Delegated Refusal	Received: 16.03.2021  Started: 15.09.2021
7 Chase End Epsom, Surrey KT19 8TN	Appeal Ref: 3272651 LPA Ref: 20/01874/REM	Removal of Condition 7 (Removal of Permitted Development Rights (Schedule 2, Part 1, Classes A, B, C, D and E)) of Planning Permission 20/00728/OUT (Erection of 1 x 2 bedroom and 2 x 3 bedroom semi-detached houses including new access, associated external works and parking, following demolition of No. 7 Chase End).	Delegated Refusal	Received: 07.04.2021  Started: 14.09.2021
Langley Bottom Farm, Langley Vale Road Epsom	Appeal Ref: 21/00044 LPA Ref: 20/00475/FUL	Demolition of the existing buildings on the site and construction of twenty residential dwellings, of which eight (40%) would be affordable together with associated access, landscaping and parking. (Amended site location plan received 06.08.2020)	Committee Refusal	Started 12.08.2021  Hearing Date: 06.07.2022

36, 38 & 40 Rowden Road West Ewell	Appeal Ref: 21/00037  LPA Ref: 19/01617/FUL	Demolition of Nos 36, 38 & 40 Rowden Road, and garage block at Crane Court; and the erection of 12no new dwellings (including 8no 1 bedroom flats, 2no 2 bedroom flats, and 2no 3 bedroom houses); including associated landscaping, access and parking	Committee Refusal	Started 13.08.2021
Land Adjoining Glebe Cottage North Looe Reigate Road Ewell	Appeal Ref: 21/00052  LPA Ref: 21/00635/PDCOU	Change of use of Agricultural Buildings to Residential (Use Class C3)	Delegated Refusal	Started 03.11.2021
324 Kingston Road Ewell	Appeal Ref: 21/00055  LPA Ref: 21/00146/FUL	Demolition of existing dwelling and garage and erection of a two-storey building (with loft accommodation) comprising 7 flat units and associated parking	Non-determination	Started 07.12.2021
Land At Rear Of 89 And 91 Park Avenue East Stoneleigh	Appeal Ref: 21/00015  LPA Ref: 21/01428/FUL	Demolition of the existing pool house at 89 and detached bungalow at 91, and the erection of four houses (comprising 4 no four bedroom detached chalet bungalows) with associated access and parking.	Non-determination	Started 11.02.2022
Land At 336 To 368 Kingston Road	Appeal Ref: 22/00002  LPA Ref: 21/01647/FUL	Erection of a 1 no. two bedroom end of terrace dwellinghouse with undercroft access to land at the rear.	Non-determination	Started 23.02.2022
107-111 East Street, Epsom	Appeal Ref: 21/00046  LPA Ref: 20/00797/FUL	Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 23 residential flats (8 x 1 bedroom, 11 x 2 bedroom and 4 x 3 bedroom) with associated car and cycle parking and refuse storage	Committee Refusal	Started 20.09.2021
107-111 East Street, Epsom	Appeal Ref: 22/00016  LPA Ref: 21/01708/FUL	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.	Committee Refusal	Lodged 24.05.2022
Epsom General Hospital Dorking Road Epsom	Appeal Ref: 22/00053  LPA Ref: 20/00249/FUL	Erection of a multi storey car park comprising ground plus 5 storeys and 527 car parking spaces, reconfiguration of surface parking to provide 104 car parking spaces and improvement to the access road from Dorking Road.	Committee Refusal	Lodged 26.11.2021
140 - 142 Ruxley Lane West Ewell	Appeal Ref: 22/00013  LPA Ref: 20/01406/FUL	Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping.	Non-determination	Started 04.05.2022

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