

## PLANNING COMMITTEE

Thursday 19 December 2019 at 7.00 pm

Council Chamber - Epsom Town Hall

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 Clive Woodbridge (Chair)  
Councillor Monica Coleman (Vice-Chair)  
Councillor Nigel Collin  
Councillor Neil Dallen  
Councillor Previn Jagutpal  
Councillor Colin Keane  
Councillor Jan Mason

Councillor Steven McCormick  
Councillor Lucie McIntyre  
Councillor Debbie Monksfield  
Councillor Peter O'Donovan  
Councillor David Reeve  
Councillor Humphrey Reynolds

Yours sincerely



Chief Executive

For further information, please contact Democratic Services tel: 01372 732121 or email: [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk)

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- 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**

### **Information & Assistance:**

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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).

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### **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 5.30pm and 6.30pm 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 Democratic Services tel: 01372 732121 or email: [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk).

## **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 - 26)**

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Planning Committee held on the 7 November 2019 (attached) and authorise the Chairman to sign them.

### **3. 59 ASHLEY ROAD EPSOM SURREY KT18 5BN 18/00548/FUL (Pages 27 - 44)**

Residential development of 6 flats in a detached building, including associated landscaping, access and parking following demolition of existing dwelling.

### **4. KINGS ARMS PUBLIC HOUSE 144 EAST STREET EPSOM KT17 1EY 19/00900/REM (Pages 45 - 60)**

Variation of Condition 2 (Approved drawings) of planning permission 18/00315/FUL to permit minor revisions to the elevations and fenestration of the proposed new building.

### **5. ODEON CINEMA, 16 - 18 UPPER HIGH STREET, EPSOM, KT17 4QJ - 19/01056/REM (Pages 61 - 68)**

Variation of opening hours

### **6. TOWN HALL CAR PARK, DULLSHOT GREEN, EPSOM KT17 4NY - 19/01285/CLE (Pages 69 - 74)**

Application for certificate of lawful use in respect of hand washing at Hope Lodge and Town Hall Car Parks.

### **7. CAR PARK - UPPER HIGH STREET, EPSOM KT17 4QY - 19/01333/CLE (Pages 75 - 80)**

Application to establish the lawful status of the existing use of part of car park for hand car washing

**8. TREE PRESERVATION ORDER 37 - REVOCATION - 18A RICHLANDS AVENUE** (Pages 81 - 86)

Revocation of Tree Preservation Order 37

**9. MONTHLY REPORT PLANNING APPEAL DECISIONS** (Pages 87 - 88)

The Committee is asked to note appeal decisions from 20th October 2019 to 2nd December 2019.

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**Minutes of the Meeting of the PLANNING COMMITTEE held on 7 November 2019**

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**PRESENT -**

Councillor Clive Woodbridge (Chair); Councillor Humphrey Reynolds (Vice-Chair); Councillors Nigel Collin, Neil Dallen (present for items 7 & 8 - left the Chamber at 20.20), Rob Geleit (as nominated substitute for Councillor Debbie Monksfield), Previn Jagutpal (from 19.15), Colin Keane, Jan Mason, Steven McCormick, Peter O'Donovan and David Reeve and Clive Smitheram (as nominated substitute for Monica Coleman).

In Attendance:

Absent: Councillor Monica Coleman, Councillor Lucie McIntyre and Councillor Debbie Monksfield

Officers present: Amardip Healy (Chief Legal Officer), Ruth Ormella (Head of Planning), Virginia Johnson (Planner), Steven Lewis (Planning Development Manager), John Robinson (Senior Planner) and Sandra Dessent (Committee Administrator)

**37 ELECTION OF A VICE-CHAIR**

In the absence of the Vice-Chair, Councillor Humphrey Reynolds was elected as Vice-Chair for the evening with the agreement of the Committee.

**38 DECLARATIONS OF INTEREST**

In the interests of openness and transparency the following declarations were made:

South Hatch Stables Burgh Heath Road Epsom KT17 4LX  
Councillor Jan Mason, Other Interest: Declared she was a member of Epsom & Walton Downs Conservators and a representative for the Training Grounds Management Board (TGMB). She did not take part in any of the deliberations or vote.

South Hatch Stables Burgh Heath Road Epsom KT17 4LX  
Councillor Neil Dallen, Other Interest: Declared he was a member of the Civic Society and the Training Grounds Management Board (TGMB).

South Hatch Stables Burgh Heath Road Epsom KT17 4LX  
Councillor Nigel Collin, Other Interest: Declared that he did not participate in the determination or vote when it was determined at Planning Committee on 17 September, and the same circumstances prevailed. Therefore he withdrew from this item..

South Hatch Stables Burgh Heath Road Epsom KT17 4LX

Councillor Steven McCormick, Other Interest: Declared he was a member of the Epsom Civic Society, Epsom & Ewell Tree Advisory Board, Woodcote (Epsom) Residents Society, Epsom & Walton Downs Conservators. He is known to the applicant and other trainers in the area and supports the Retraining of Racehorses (ROR) charity. Councillor Steven McCormick confirmed that he was not pre-disposed or predetermined and retained an open mind.

The Lodge, West Street, KT17 1XU

Councillor Clive Woodbridge, Other Interest: Declared he was a member of the 'Friends of Gibraltar Recreation Ground' situated adjacent to the site location.

The Lodge, West Street, KT17 1XU

Councillor David Reeve, Other Interest: Declared that he was known to the objector of the application.

The Lodge, West Street, KT17 1XU

Councillor Humphrey Reynolds, Other Interest: Declared that he was a Ward Councillor representing Ewell Ward in which the application was located.

### 39 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meetings of the Planning Committee held on 5 and 17 September were agreed as a true record and signed by the Chair.

### 40 ORDER OF MEETING

With the agreement of the Committee the order of the meeting was changed as follows: Item 8, item 7 followed by items 3, 4, 5, 6 and 9.

### 41 SOUTH HATCH STABLES BURGH HEATH ROAD EPSOM KT17 4LX

#### **Description**

Demolition of the existing Racehorse Training Establishment (RTE) and the erection of a new RTE comprising of a main yard stable complex of 40 boxes, a secondary stable block of 20 boxes, an isolation yard, a trainer and assistant trainers house, stable staff accommodation, horse walkers, muck pits, a therapy barn, trotting ring and outdoor school, a lunge ring, turnout paddocks and a machinery store and storage barn and enabling residential development comprising 46 apartments. [Description amended to reflect reduction in 1 apartment (47 to 46)]

#### **Recommendation**

At Planning Committee on 17 September Members resolved to grant conditional permission and refer to the Secretary of State (SoS) for determination and subject to the completion of a Section 106 Agreement, for the redevelopment of the South Hatch Stables site.

The Committee was advised that the Secretary of State (SoS) was seeking an extension beyond the prescribed 21 days to make a decision on the referral. In response the Local Planning Authority agreed not to issue planning permission



until the SoS had determined the matter. The length of the extension was not known but it was anticipated that it would extend beyond the date for the General Election i.e. 12 December.

The Committee was apprised on the drafting of the legal agreement, and was advised that the S106 had been updated to secure the following:

- Reptile translocation site and Management Plan
- Delivery of the enabling housing development in accordance with the approved phasing plan
- Securing the trainer and stable hand accommodation in perpetuity
- Community mini bus
- Travel Plan with monitoring fee
- A mechanism to review the viability of the development if Phase 4 of the residential scheme has not reached slab level within two years of consent being granted.
- A “claw back” clause to ensure that the Council is paid the equivalent value of the cost of the affordable housing provision, if the applicant/owner sold the stables in part or as a whole, within a 15 year period from completion of the enabling residential development.

As the original deadline to complete the Section 106 agreement had passed the Committee agreed to delegate to the Head of Planning the determination of the application to be signed three months from the date of the final determination by the SoS. It was noted that should the matter be called in the application would be considered at a public enquiry.

**42 29 FULFORD ROAD, WEST EWELL, SURREY, KT19 9QZ - 19/00890/CLP**

***Description***

Single storey rear extension (Application for a certificate of Lawfulness for a Proposed Development).

***Recommendation***

This application was brought before Committee as the property is owned by a member of the Council staff.

The proposed development was considered Permitted Development under Schedule 2, Part 1, Classes A and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore Officers were satisfied that the appropriate legal tests had been met.

***Decision***

To **Grant** a Lawful Development Certificate

**Informatives:**

- (1) The proposed development is considered Permitted Development, under Schedule 2, Part 1, Classes A and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to the following conditions

**Class A (The enlargement, improvement or other alteration of a dwellinghouse.)**

**Development is permitted by Class A subject to the following conditions—**

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i) obscure-glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

**Class C (other alterations to the roof of a dwellinghouse)**

**Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be—**

(a) obscure-glazed; and

(b) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed..

- (2) The decision relates to the following drawings:

**Site Location Plan**

**TD001 - Existing Plans - June 2018**

**TD002 - Proposed Floor Plan - June 2018**

**TD003 - Proposed Elevations - June 2018.**

- (3) Please note that this is only permitted development if the proposed roof lights protrude no more than 0.15m beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof.
- (4) All external fascias, materials, treatments and finishes of the proposed new work shall match existing house and those listed in the submitted approved plans to the satisfaction of the Local Planning Authority.
- (5) 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.

If you need any advice regarding Building Regulations please do not hesitate to contact Epsom & Ewell Borough Council Building Control on 01372 732000 or [contactus@epsom-ewell.gov.uk](mailto:contactus@epsom-ewell.gov.uk).

- (6) You have been granted planning permission to build a residential extension. 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.

- 43 HORTON PARK GOLF AND COUNTRY CLUB, HOOK ROAD, EPSOM, SURREY, KT19 8QG

***Description***

Replacement driving range fence

**Recommendation**

This application was brought before the Committee as the site falls within land owned by the Council.

Officers reported that there were no material, visual or amenity concerns arising from the proposal and the applicant submitted the following justification in support of the application:

- Over the past twenty years golf club technology had continually increased the distance a golf ball could be hit and there was potential for them to fly over the current netting
- The increase in height of the netting would increase safety standards on the range for customers and staff

The Committee discussed the impact on the openness of the Green belt and the visual amenity and it was agreed that planning permission be granted.

**Decision**

Planning permission is **PERMITTED** subject to the following conditions:

**Conditions:**

- (1) The development hereby permitted shall be commenced within 3 years from the date of this decision.

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

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

**Proposed elevations:** Drawing 16042 101

**Proposed layout:** Drawing DW15031703

**Lighting Column:** Drawing DW27011101 Rev1

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

- (3) Prior to the commencement of development, details and samples of the netting to be used for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

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

**Informative:**

- (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.

- 44 THE ROYAL AUTOMOBILE COUNTRY CLUB (RAC), OLD BARN ROAD, EPSOM, SURREY, KT18 7EW

***Description***

Variation of Condition 2 (drawings) of planning ref: 18/00645/FUL dated 14 November 2018, to amend the engineering design of the Reservoir.

***Recommendation***

Following the granting of planning permission in November 2018, work had commenced on site, however during the course of survey works and engineering checks it was established that engineering adjustments to the form of the reservoir were required.

The application sought technical design changes to the reservoir only which would not impact the capacity of the reservoir (6 million gallons), maintenance area, access to the site or the power line constraints.

Officers had assessed the application against planning policy and it was not considered to adversely impact the Green Belt or the ecological and biodiversity potential of the site.

***Decision***

Planning permission is **PERMITTED** as per the original conditions detailed below with the only change being to the approved drawings as set out in Condition No.2.

**Conditions:**

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of 14 November 2018.

**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. The development hereby**

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

**RAC\_SLP\_09\_05.18 – Site Location Plan – dated 31.05.18**

**MWE\_RAC\_PPS\_25\_08.19 – Planning Phase Sections – dated 15.08.19**

**MWE\_RAC\_PPP\_24\_08.19 – Planning Phase Plan – dated 15.08.19**

**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 shall be carried out in accordance with the details of the pump house, approved under application ref: 19/00086/COND, granted 15 May 2019**

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

- (4) **The development shall be carried out and retained in accordance with the details of the fence(s), approved under ref: 19/00086/COND, granted 15 May 2019**

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

- (5) **The reservoir land forming and development, shall be carried out in strict accordance with the agreed recommendations for Tree Work and Tree Protection as detailed in the Arboricultural Assessment produced by SJA dated July 2018 reference SJA air 18095-01C**

**Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.**

- (6) **The development shall be carried out in accordance with the agreed details of the Arboricultural Method Statement and Tree Protection Plan, as approved under ref: 19/00086/COND, granted 15 May 2019. The development shall be carried out in accordance with the agreed details and no equipment, machinery or materials shall be brought**

onto the site for the purposes of the development until fencing has been erected in accordance with the Tree Protection Plan. Within the area fenced in accordance with this condition, nothing shall be stored, placed or disposed of above or below ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior consent of the local planning authority. The fencing shall be maintained in accordance with the approved details, until all equipment, machinery and surplus materials have been moved from the site.

**Reason:** To ensure that the tree(s) receive the appropriate treatment and that the tree work is of a satisfactory standard to protect amenity in accordance with Policies CS1 and CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

- (7) A Traffic Management Plan and Transport Management Plan were approved under ref: 19/00086/COND, granted 15 May 2019. The approved details shall be implemented during the construction of development.

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

- (8) The development shall take place in accordance with the detailed Written Scheme of Investigation, approved under ref: 19/00086/COND, granted 15 May 2019. The development shall only take place in accordance with the detailed scheme pursuant to this condition. The archaeological works only shall be carried out by a suitably qualified investigating body acceptable to the Local Planning Authority.

**Reason:** The site has archaeological potential and it is important that the archaeological information should be preserved as a record before it is destroyed by the development in accordance with Policy CS5 of the Core Strategy (2007).

- (9) The development shall be implemented strictly in accordance with the mitigation and enhancement measures outlined in the Ecological Appraisal dated August 2018 (Report Reference - EDP1297\_r020b) and the recommendations and conclusions drawn in the 2012 Ecological Appraisal (Report Reference - EDP1297\_01g) dated September 2012.

**Reason:** To preserve and enhance biodiversity and habitats in accordance with Policy CS3 of the Core Strategy (2007) and Policy DM4 of the Development Management Policies 2015.

- (10) The development permitted by this planning permission shall only be carried out in accordance with the approved FRA produced by WSP dated June 2018 reference no. 7004190/MZ/EI.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

- (11) No construction work shall be carried out in such a manner as to be audible at the site boundary before 08.00 hours or after 18:00 hours Monday to Friday; no construction work shall be audible at the site boundary before 08:00 or after 13:00 hours on Saturdays and no construction work of any nature shall be carried out on Sundays or Bank/Public Holidays.

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies 2015.

- (12) Details of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of 5 years, was submitted to and approved by the local planning authority, ref: 19/00086/COND, dated 15 May 2019. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained.

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

- (13) The plant and machinery shall be used in accordance with the approved scheme for enclosure and sound installation materials, approved under ref: 19/00086/COND, granted 15 May 2019

Reason: To protect the occupants of nearby residential properties from noise disturbance in accordance with Policy DM10 of the Development Management Policies 2015.

**Informative:**

- (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.**

**45 DEVELOPMENT SITE AT GARAGES, ORMONDE AVENUE, EPSOM, SURREY**

***Description***

Erection of three no. two-bedroom dwellings

***Recommendation***

The Committee received an application which proposed a terrace of three dwellings and the provision of six car parking spaces, exceeding local planning policy standards.

Officers confirmed that the application for three units was below the threshold for stipulating affordable housing as part of the scheme. It was noted however that the applicant was a registered social landlord and their intention was for the dwellings to be provided as affordable dwelling for rent, as part of their housing estate.

***Decision***

Planning permission is **PERMITTED**, subject to the following conditions:

**Conditions:**

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

**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 accordance with the following approved plans:**

**EX01 – Existing Location Plan and Block Plan for Planning Submission – dated Mar 2019**

**EX02 – Existing Site Survey Plan for Planning Submission – dated Mar 2019**

**EX03 – Existing Site Sections & Elevations for Planning Submission – dated Mar 2019**

**PL01 – Proposed Location Plan and Block Plan for Planning Submission – dated Mar 2019**

**PL02 – Proposed Site Plan With Vehicle Tracking, Previous Planning Scheme & Dimensions for Planning Submission – dated Mar 2019**

**PL03 – Proposed Site Plan, Ground Floor Plan, First Floor Plan & Roof Plan for Planning Submission – dated Mar 2019**

**PL04 – Proposed Elevations for Planning Submission – dated Mar 2019**

**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 and the following drawings:**

**PL01 – Proposed Location Plan and Block Plan for Planning Submission – dated Mar 2019**

**PL02 – Proposed Site Plan With Vehicle Tracking, Previous Planning Scheme & Dimensions for Planning Submission – dated Mar 2019**

**PL03 – Proposed Site Plan, Ground Floor Plan, First Floor Plan & Roof Plan for Planning Submission – dated Mar 2019**

**PL04 – Proposed Elevations for Planning Submission – dated Mar 2019**

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

- (4) Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations shall not take place other than between the hours of 08.00 to 18.00 hours Mondays to Fridays; 08.00 to 13.00 hours Saturdays; with no work on Saturday afternoons (after 13.00 hours), Sundays, Bank Holidays or Public Holidays.**

**Reason: In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies 2015.**

- (5) Full details, of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of 5 years, shall be submitted to and approved in writing by the local planning authority. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained.**

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

- (6)** The development hereby approved shall not be first occupied unless and until details of demarcation, allocation, signage and hardstanding for the new parking spaces have been submitted to and approved by the local planning authority. The parking spaces shall thereafter be laid out within the site in accordance with the approved plans for a minimum of 6 vehicles to be parked and thereafter retained and maintained for their designated parking purpose. The parking spaces are to be used by residents of the development hereby approved only.

**Reason:** The above condition is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2019 and DM37 Parking Standards of the Epsom and Ewell Borough Council Development Management Policies Document 2015.

- (7)** 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 cycles to be securely stored. Thereafter the storage areas shall be retained and maintained for their designated purposes.

**Reason:** The above condition is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and DM 37 Parking Standards of the Epsom and Ewell Borough Council Development Management Policies Document September 2015.

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

**Reason:** The above condition is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and DM 36 Sustainable Transport for New Development of the Epsom and Ewell Borough

**Council Development Management Policies Document September 2015.**

- (9) **Bat, swift and bird boxes are to be installed on the dwellings, to enhance the biodiversity interest of the site. The boxes shall be installed prior to the occupation of the development hereby approved and thereafter maintained.**

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

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

**a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.**

**b) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate agreed with the LLFA and LPA.**

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

**d) 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.**

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

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

**Reason: To ensure the design meets the national Non-Statutory Technical Standards for SuDS and the final drainage design does not increase flood risk on or off site and to comply with Policy CS6**

of the Epsom and Ewell Core Strategy (2007) and Policy DM19 of the Development Management Policies 2015.

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

**Reason:** To ensure the Drainage System is constructed to the National Non-Statutory Technical Standards for SuDS and to comply with Policy CS6 of the Epsom and Ewell Core Strategy (2007) and Policy DM19 of the Development Management Policies 2015.

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

- (13) Prior to any occupation of the site, the approved remediation scheme prepared under Condition 12 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 ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems,

and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, Policy DM17 of Development Management Policies 2015.

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

- (15) No development including any works of demolition or preparation works prior to building operations shall take place on site until a Construction Transport Management Plan has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials used in constructing the development
- (d) programme of works (including measures for traffic management)
- (e) provision of boundary security hoarding behind any visibility zones
- (f) wheel washing facilities
- (g) measures to control the emissions of dust and dirt during construction
- (h) a scheme for the recycling/disposing of waste resulting from demolition and construction works
- (i) hours of operation.

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

**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 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).
- (4)** 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.
- (5)** The applicant 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.**

*The Committee noted a verbal representation from the agent. Letters of representation had been published on the Council's website and were available to the public and members of the Committee in advance of the Meeting.*

**46 THE LODGE, WEST STREET, KT17 1XU**

***Description***

Demolition of existing detached house and construction of Two houses and Four flats.

Note: The website link on the agenda was incorrect and should be replaced with the following link:

<http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PTRJ3MGYFHF00>

***Recommendation***

The Committee received a report seeking to build two houses and four flats with direct access to Ewell Village and, bounded by Gibraltar Recreation ground to the north west of the site. The development would accommodate two parking spaces on the site and it was proposed that the parking demand for an additional six spaces would be accommodated using off street parking.

The report outlined paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) and Members were encouraged to view the proposed development in terms of sustainable development i.e. in terms of economic, social and environmental impact. The Objectively Assessed Housing Need (OAHN) that required the Borough to build 695 dwellings per year was also emphasized and the Council's commitment to maximising the five year land supply.

It was confirmed that the proposed development did not include sufficient spaces to meet the Council's minimum parking standards and Members discussed the potential impact on surrounding streets and Gibraltar Recreation ground car park which was intended for residents who used the facilities in the park. It was noted that the applicant had provided a transport statement and Surrey County Council (SCC) Highways had not raised any objections.

It was acknowledged that the proposed development would maximise the density of the site. Members deliberated the balance between potential less than significant harm to the character of a conservation area and the benefits associated with the provision of an additional five dwellings.

***Decision***

Planning permission is **REFUSED** for the followings reasons:



- (1) The design of the development by reason of its scale, massing, bulk and detail would fail to preserve or enhance the character and appearance of the Ewell Village Conservation Area, resulting in less than substantial harm to the designated heritage asset. The development does not achieve public benefits that outweigh the harm and adverse impacts of the scheme when assessed against the policies in the National Planning Policy framework taken as a whole. The proposal is contrary to the NPPF, policies DM8, DM9, and DM10 of the Development Management Policies Document 2015 and CS5 of the Core Strategy 2007.
- (2) The proposed development would not meet the parking standards as set out in DM37 of the Development Management Policies Document 2015 resulting in harm to the surrounding area in terms of streetscene and availability of on street parking, and failing to comply with CS16 of the Core Strategy 2007.

*The Committee noted verbal representations from an objector and the agent for the application. Letters of representation had been published on the Council's website and were available to the public and members of the Committee in advance of the meeting.*

#### 47 MONTHLY REPORT PLANNING APPEALS DECISIONS

The Committee noted five appeal decision from 20 August to 16 October 2019 and the number of dwelling for which planning permission had been granted up to September 2019.

*The meeting began at 7.00 pm and ended at 8.40 pm*

COUNCILLOR CLIVE WOODBRIDGE (CHAIR)

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## 59 Ashley Road Epsom Surrey KT18 5BN

Residential development of 6 flats in a detached building, including associated landscaping, access and parking following demolition of existing dwelling.

<b>Ward:</b>	<b>College Ward;</b>
<b>Contact Officer:</b>	<b>John Robinson</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: <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PBUMGQGYKFW00>

### 2 Summary

- 2.1 The application seeks permission for a residential development of 6 flats in a detached building, including associated landscaping, access and parking, following demolition of the existing dwelling.
- 2.2 The application has been submitted to Committee at the request of the Ward Councillor David Gulland
- 2.3 The application would comply with residential policies contained within the Development Management Policies Document 2015 and is therefore recommended for **APPROVAL**

### 3 Site description

- 3.1 The application site, which has an area of approximately 0.13ha, is located on the eastern side of Ashley Road, broadly midway between the junctions of Downs Hill Road in the north and Treadwell Road in the south.
- 3.2 There is currently a large two-storey detached dwelling on the site, which is located roughly centrally within the plot. Adjacent to the dwelling lies a detached single storey garage/outbuilding. Aside from the dwelling on site the plot benefits from a significant degree of soft landscaping, an amount of hardstanding for car parking at the site frontage and associated vehicular access.

- 3.3 The nearest neighbouring properties are No. 57 Ashley Road to the north and No. 61 Ashley Road to the south.
- 3.4 The application site is located within Site 38 (Ashley Road & Downs Road) in the Council's Environmental Character Study. The Study states the following:
- 3.5 *"In terms of location, the area has a distinctive topography and sits on the urban settlement edge. In terms of landscape, the tall, closely spaced street trees (mainly beech) form the dominant element on the street and create a semi-woodland feature. Taken together, location and landscape help to form a distinctive character area itself, and also a landmark gateway between the Borough's urban and Epsom Downs areas. The built form of the area is notable for set back detached properties (many of which are of a high residential architectural quality and individually distinct) on large plots - with a degree of visual variance in styles/finishes."*
- 3.6 There are a number of Tree Protection Orders (TPOs) on the site, comprising 38/G12 a group consisting of 1 Corsican Pine 6 Beech 6 Larch and 1 Sycamore, 38/T7 a Beech , 38/T15 an Acer Palmatum and 38/T14 a Horse Chestnut.
- 3.7 The site is noted located within a Conservation Area, nor is it in close proximity to any Listed Buildings and therefore does not affect their setting.

#### **4 Proposal**

- 4.1 This application seeks permission for the demolition of the existing dwelling and the erection of a two storey building (with roof accommodation) accommodating 6 flats (1 one bed and 5 two bed flats) and associated parking.
- 4.2 The new apartment building would be located on the siting of the existing dwelling, and would have a broadly rectangular footprint measuring 15.24m x 12.3m. It would have crowned hipped roof with an eaves height of 5.96m and a maximum ridge height of 9.48m with the upper floor accommodation within the slope of the roof. The dwelling would maintain the established building line.
- 4.3 Each flat would comply with national space standards in regards to overall gross internal area (GIA) and individual habitable rooms. A mix of private (serving the ground floor units) and communal amenity space for the units would be provided.
- 4.4 The hip-roofed building would be in the local Surrey/Sussex vernacular, with an asymmetrical design to the massing of the front elevation comprising a two storey "Sussex" gable-ended projection, and a two storey "pavilion" projection.

- 4.5 Materials would comprise part red brick/part rendered elevations, painted timber fenestration under red/brown clay roof tiles.
- 4.6 Vehicle and pedestrian access to the development would be via the existing access off Ashley Road. 6 parking spaces would be provided at the front of the development. Refuse storage will be provided in the refuse store located on the northern flank of the building , with a collection point located towards the front of the site close to the existing site access. Cycle storage for 12 cycles would be located to the rear of the site, adjacent to the communal amenity area.

## **5 Comments from third parties**

- 5.1 The application was advertised by means of letters of notification to 33 neighbouring properties. To date (11.12.2019) 26 letters of objection have been received regarding:
- The construction could have an adverse effect on the trees, bushes and plants in the area with a knock on effect to the wildlife living in the area.
  - The proposed development is an over development of the site
  - Highway safety
  - Out of character
  - Overlooking and loss of privacy
  - Noise and disruption (The proposed communal garden would back directly onto our rear garden. Noise levels from up to 22 residents plus their visitors (compared to just 4-5 at present) would so clearly disrupt the current peace and tranquillity of this immediate area.
  - Significant risk of damage to the remaining trees, leaving aside the removal of those identified in the plans.

Epsom Civic Society: Recommends refusal as it would be contrary to Policies DM5, DM8 DM10 and DM 11

## **6 Consultations**

- 6.1 Surrey County Council: County Highways Officer: No objection. Conditions to be imposed on any permission granted.
- 6.2 Tree Officer: Initial concerns regarding root protection area % covered by hard standing on trees to be retained, and proposed service runs have been addressed by the applicant. Conditions to be imposed on any permission granted.

**7 Relevant planning history**

7.1 None relevant

**8 Planning Policy**

National Policy Planning Framework (NPPF) 2019

Core Strategy 2007

Policy CS1	Creating Sustainable Communities
Policy CS3	Biodiversity
Policy CS5	The Built Environment
Policy CS6	Sustainability in New Developments
Policy CS16	Managing Transport and Travel

Development Management Policies Document 2015

Policy DM4	Biodiversity and New Development
Policy DM5	Trees and Landscape
Policy DM9	Townscape Character and Local Distinctiveness
Policy DM10	Design Requirements for New Developments
Policy DM11	Housing Density
Policy DM12	Housing Standards
Policy DM17	Contaminated Land
Policy DM22	Housing Mix
Policy DM37	Parking Standards

**9 Planning considerations**

Principle of Development

- 9.1 The overarching principle for the strategy of Epsom and Ewell is to achieve sustainable development. Core Strategy (2007) Policy CS1 states that the Council will expect the development and use of land to contribute positively to the social, economic and environmental improvements necessary to achieve sustainable development. Changes should protect and enhance the natural and built environments of the borough.

- 9.2 Paragraph 70 of the NPPF states that local planning authorities should consider setting out policies to resist inappropriate development of residential gardens where development would cause harm to the local area.
- 9.3 The NPPF paragraph 59 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 9.4 Paragraph 68 of the NPPF encourages the promotion of small and medium sized sites – "giving great weight to the benefits of using suitable sites within existing settlements for homes".
- 9.5 Paragraph 122 of the NPPF states that planning policies and decisions should support development that makes sufficient use of land taking into account: (d) the desirability of maintaining an areas prevailing character and setting (including residential gardens) or of promoting regeneration and change...
- 9.6 The Governments standard method for calculating the objectively assessed housing need identifies a housing requirement for the Borough of 579 new homes each year. In the absence of a five year housing land supply this has been increased to 695 under the housing delivery test as published on 20th February 2019
- 9.7 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.
- 9.8 Paragraph 11d of the National Planning Policy framework is engaged via footnote 7 in circumstances where Local Planning Authorities cannot demonstrate a 5 year supply. The practical application and consequence of this is that unless the site is located in an area or involves an assets of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impacts demonstrably outweigh the benefits when assessed against the NPPF as a whole.
- 9.9 Given the significant housing need in the borough, it is considered that the proposed redevelopment of this site in a sustainable location for a residential scheme is appropriate in principle, subject to the detailed consideration of the other planning considerations below.

Visual Impact

- 9.10 Chapter 12 of the NPPF refers to design. Paragraph 127 sets out that planning decisions should ensure that developments (inter alia) 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, including the surrounding built environment and landscape setting. Development should also create places that are safe, inclusive and accessible
- 9.11 Policies DM9 and DM10 encourage high quality development and planning permission will be granted for proposals, which make a positive contribution to the borough's visual character and appearance.
- 9.12 The hipped roofed building, which would be of traditional style, would have an asymmetrical design to the massing of the front elevation, with a first floor setback with gabled frontages. Materials would comprise facing brickwork, horizontal cladding and concrete roof tiles. The ground floor would be facing brickwork with a plinth brickwork at low level.
- 9.13 The new building would have an eaves height matching that of the adjacent dwelling at No 61, and would have a similar footprint width to both the dwelling it would replace, and the adjacent neighbour. The gaps between the buildings would be acceptable, and would not give the impression of the new building being 'crammed' onto the site with little space for the building to "breathe" in its surroundings.
- 9.14 Overall the building would relate acceptably to the prevailing style and appearance of buildings in the immediate area.
- 9.15 It is concluded that overall, the proposed scheme would be of high quality and would enhance the streetscene, as well as the character and appearance of the wider area. It would therefore accord with Policy DM9 and DM10

Neighbouring Amenity

- 9.16 The flank elevation of the proposed scheme would face the flank elevation of No 61 (to the south) at a distance of around 2m, and the flank elevation of the dwelling to the north (No 57) at a distance of 29m. At first floor level, flank windows would be obscurely glazed, and at second floor level, rooflights with a cill height of 1.7m above floor level, are proposed to serve flank facing rooms.
- 9.17 Dormer windows would be located in the rear elevation, facing the communal garden. The positioning of the new building would prevent it from conflicting with a 45 degree outlook angle subtended from the nearest ground floor windows of the adjoining property at No 61.



- 9.18 The separation gap between the application building and its adjacent neighbours would prevent any material loss of daylight or impact on outlook.
- 9.19 It is therefore concluded that the proposed scheme would not have a materially harmful impact on neighbour amenity in terms of overlooking, loss of privacy, daylight or being overbearing in their outlook, in accordance with Policy DM10

#### Quality of Accommodation

##### Minimum Standards

- 9.20 The Nationally Described Space Standards, introduced by DCLG in March 2015, sets clear internal minimum space standards for new dwellings. The space standards are intended to ensure that all new homes are fit for purpose and offer the potential to be occupied over time by households of all tenures while policy DM10 of the Development Management Policies Document states that in order to ensure that the housing delivered is of high quality and the most appropriate type, the Council will expect proposals for new residential development to accord with the principles of good design. Policy DM12 states that the Council will expect proposals to include the provision of appropriate amenity space and play space provision.
- 9.21 The proposed 2 bed (4 bedspace) flat would have a GIA of 70<sup>2</sup>, the 2 bed (3 bedspace) flats an area between 61m<sup>2</sup> and 67m<sup>2</sup>, and the 1 bed (2 bedspace) flats an area of 50m<sup>2</sup>.
- 9.22 Each flat would comply with the appropriate Nationally Described Space Standard technical requirements (70m<sup>2</sup>, 61m<sup>2</sup> and 50m<sup>2</sup> respectively)

##### Amenity Space

- 9.23 Policy DM12 refers to housing standards and requires amenity space to be private, functional, safe and bio-diverse, easily accessible from living areas, oriented to take account of sunlight and shading, of sufficient size to meet the needs of the likely number of occupiers and provide for the needs of families with young children.
- 9.24 Access to private amenity space for the ground floor flats (Nos 1 and 2) would be provided. The upper floor flats would have access to communal amenity space at the rear of the building.
- 9.25 The space provided for all of the flats, in terms of both quality and function, is considered to meet the overall standard set out in DM12.

Sustainable Construction

- 9.26 Core Strategy policy CS6 requires proposals to demonstrate how sustainable construction and design can be incorporated to improve the energy efficiency of development.
- 9.27 An appropriate planning condition is recommended, should the proposal be acceptable, to secure their inclusion.

Car Parking and Access

- 9.28 Paragraph 109 of the NPPF 2018 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.29 6 allocated parking spaces and two visitor spaces are proposed which would comply with the Council's adopted parking standards which require 1 and 2 bedroom flats outside of the Town Centre to have 1 space per unit. The development is in a sustainable location, within proximity of a local bus route and the parking provision is therefore acceptable.
- 9.30 Secure covered bicycle parking is also provided within the scheme at a level of 2 spaces per unit to accord with the Council's requirements.
- 9.31 A refuse storage area would be provided as well as a space for the storage of refuse/recycling bins located within the required carrying distance for service personnel.
- 9.32 The Highways Officer commented as follows:
- 9.33 *"The CHA undertook a site visit on 24/10/2018 in order to make a full assessment. It was noted during this site visit that there are bus stops near by the proposed development which do not have a shelter. There is also no footway on the opposite side of the site where there is currently a bus stop situated. The CHA currently has no objections to the proposed development on highway Safety grounds, however, it is recommended that any future CIL contributions are put towards provision of shelters at the bus stops and a footway to serve the bus stop on the opposite side of the carriageway from the development."*

*The CHA notes the concerns from residents in regard to where the proposed development is situated in relation to the bend in the road. However, having undertaken a second site visit and physically measuring the vehicle visibility, the CHA is still satisfied that the proposed development would not present a highway safety problem. During the second site visit it was noted that a driver proceeding south along Ashley Road would be able to see the access to the site from a point 54m north of the access. Furthermore, a driver proceeding south would be able to see a driver waiting to turn left into the access from a point 50m north of the access. The access itself has visibility of 43m to a point 0.5m into the carriageway from the nearside kerb. This visibility was taken from a point 2.4m back along the access from the nearside kerb. All of the above measurements are commensurate with the posted speed limit of 30mph and Manual for Streets. Manual for Streets states that drivers should be driving according to the speed limit and the conditions of the road”.*

- 9.34 The County Highways Authority therefore has no objection to the proposal subject to the imposition of highway conditions regarding the provision of the parking spaces, vehicle charging sockets and a Construction Transport Management Plan
- 9.35 The proposed scheme would therefore comply with Policy DM37.

Ecology /Biodiversity

- 9.36 Chapter 15 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 170 sets out that planning decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes and sites of biodiversity. Development should, wherever possible, help to improve local environmental conditions, such as air and water quality.
- 9.37 The ratio of built area to site area on the application site is acceptable, and there would not be a material diminution of the grassed area to the rear. Accordingly, there would not be an adverse impact on ecology/biodiversity, contrary to Policy DM4, which requires that every opportunity should be taken to secure net benefit to the Borough's biodiversity.
- 9.38 The application is supported by a Bat Emergence Survey Report which concludes the following:

*Common pipistrelle (Pipistrellus pipistrellus) and soprano pipistrelle (Pipistrellus pygmaeus), were recorded feeding on site primarily around the canopies of the mature trees within the garden and open lawn area of the back garden. No bats were recorded emerging from the application building.*

*As no bats were recorded emerging from the buildings and they were investigated internally the likelihood of affecting a bat or their conservation status under the legislation should be considered to be low. The bat activity recorded across the site showed that the gardens provide a feeding resource for bats locally. None of mature trees on site are currently proposed to be directly affected by the development. It should be noted that the mature trees at the front of the property are to be retained and are subject to TPO's.*

- 9.39 It is recommended that a condition requiring the installation of bat and bird boxes, swift and bee bricks, as well as the planting of native trees and shrubs be imposed, in order to enhance the value of the site for local wildlife, with a net gain for biodiversity as encouraged by Policy DM4.

#### Trees Landscaping

- 9.40 Chapter 15 of the NPPF concerns the conservation and enhancement of the natural environment. Paragraph 170 sets out that planning decisions should contribute to and enhance the local environment by (inter alia) recognising the intrinsic character and beauty of the countryside and the wider benefits from ecosystem services, including trees and woodland.
- 9.41 Policy DM5 (Trees and Landscape) of the Development Management Policies Document (2015) sets out that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by (inter alia):
- Planting and encouraging others to plant trees and shrubs to create woodland, thickets and hedgerows; and
  - Requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature tree and other planting.
- 9.42 A number of trees on the site are covered by TPO number 38/12. However, none of these trees are required to be removed as a result of the proposed development. A total of 12 individual trees and 6 tree groups were surveyed on the site. The proposed scheme provides for the retention and protection of all the trees surveyed with the exception of U Grade T6, C Grade G12 and U Grade T17. (C Grade – trees of low quality and value, with a life expectancy of more than 10 years U Grade – trees usually for removal (unless otherwise stated), with a life expectancy of less than 10 years)
- 9.43 It is proposed to install low invasive surfacing at the front of the site to formalise the existing practice of parking on the grass in the front garden and to accommodate the proposed 6 parking spaces, three of which would fall within the root protection areas of the adjacent trees.

9.44 The Tree Officer commented as follows:

- The scale of the proposed development, in its current form, necessitates an extensive hardstanding area for car parking. The surface area exceeds the 20% coverage into the Root Protection Area (RPA) as set as the maximum tolerance level in the British Standard 5837:2012
- It is recommended that the scale of the development and the frontage parking provision is reduced to ensure the existing sylvan character of the setting is preserved
- Currently the implication assessment states that existing underground service routes will be used. Officers consider that this is unlikely to be possible given the new connections required for all the new proposed apartments. There is a foreseeable risk of trenching being required past the neighbours significant trees (at 57) or through the RPA of trees in the front garden.

9.45 In response the applicant's tree consultant stated that

*An amended parking layout has been submitted. This is still in line with the council's highway parking standards and has reduced the impact on the trees within the scheme.*

*An amended arboricultural method statement and tree protection plan has been submitted.*

*All of the RPA's are under the British Standard guidance of 20%, if services are needed then two pipes are to be drilled at 1m depth and not trenched. The only excavations will be the two inspection pit at each end of the service runs. This is a recognised method of installing gas, water, power and data services as per section 7.7 of BS 5837. Furthermore, I believe this could be done through a condition if needed. The ground protection suggested could be expanded to other areas on the site for demolition purposes.*

*In summary, the arboricultural impact of the proposed scheme is minor as the only trees to be removed as a result of the proposed development (G12) are located at the rear of the site where tree removal will cause very little impact to the surrounding landscape.*

9.46 In summary the impact on the trees is considered acceptable, and in particular, when balanced against the benefits of the proposed scheme on the local area and housing numbers.

9.47 Subject to details of hard and soft landscaping, tree protection measures and service run details being secured by an appropriate condition, Officers consider that the proposal would not fall contrary to Policy DM5 – Trees and Landscape

Community Infrastructure Levy

9.48 The development would be CIL liable.

Planning Balance and Overall Conclusion

9.49 The proposal is for erection of a block of 6 flats.

9.50 The Government's standard method for calculating the objectively assessed housing need identifies a housing requirement for the Borough of 579 new homes each year. In the absence of a 5 year housing land supply this has been increased to 695 under the housing delivery test as published on 20 February 2019.

9.51 Paragraph 11d of the National Planning Policy framework is engaged via footnote 7 in circumstances where Local Planning Authorities cannot demonstrate a 5 year supply. The practical application and consequence of this is that unless the site is located in an area or involves 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 demonstrable outweigh the benefits when assessed against the NPPF as a whole.

9.52 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.

9.53 The development has been considered with regard to applying the presumption in favour of sustainable development, and the latest housing land supply position has been taken into account. It is considered that there are no adverse impacts that would otherwise outweigh the benefits of providing an additional 5 housing units. Whilst this would not make a significant contribution to the Borough's housing target, it is acknowledged that due to site constraints, the scheme represents an acceptable optimisation of the use of the site.

## **10 Conclusion**

10.1 The proposal meets planning policy objectives and gives the opportunity to redevelop this residential site with a higher density residential scheme. Accordingly the application is recommended for approval.

## **11 Recommendation**

11.1 Planning permission is GRANTED subject to the following conditions:

**Condition(s):**

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

**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 accordance with the following approved plans:

**BRN /P18/03B Site Layout**

**ARE/P18/08/A East and West Elevations**

**ARE/P18/08/A North and South Elevations**

**ARE/P18/04 Ground floor plan**

**ARE/P18/05 First floor plan**

**ARE/P18/06 Second floor plan**

**ARE/P18/07 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) Prior to the commencement of development, details and samples of the external materials to be used for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- (4) No development shall take place until details of existing and proposed finished site levels, finished floor and ridge levels of the buildings to be erected, and finished external surface levels have been submitted to and approved in writing by the local planning authority . The development shall thereafter be constructed in accordance with the approved details.

**Reason:** In order to safeguard the visual amenities of the area / In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy CS5 of the Core Strategy

**(2007) and Policy DM10 of the Development Management Policies 2015.**

- (5) No development shall take place until full details, of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of 5 years, have been submitted to and approved in writing by the local planning authority. The landscaping shall incorporate the planting of native species of trees and shrubs. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained.**

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

- (6) No development shall take place until full details of all boundary treatment have been submitted to and approved in writing by the local authority. The approved scheme shall be implemented prior to the occupation of the development hereby approved and thereafter retained.**

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

- (7) Prior to demolition of the existing building details of the 'no dig' technique, (using a cellular confinement system) of the parking spaces, shall be submitted to and approved by the local planning authority. The parking spaces shall be constructed in full accordance with the approved details.**

**Reason: To protect the roots of surrounding trees from damage by root severance and/or compaction in accordance with Policies DM5 and DM9 of the Development Management Policies 2015.**

- (8) Prior to commencement of the development details of the method of construction and route of the underground services to the new building shall be submitted to and approved by the local planning authority. The underground services shall be accommodated in full accordance with the approved details.**

**Reason: To protect the roots of surrounding trees from damage by root severance and/or compaction in accordance with Policies DM5 and DM9 of the Development Management Policies 2015.**



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

- a) parking for vehicles of site personnel, operatives and visitors
- b) loading and unloading of plant and materials
- c) storage of plant and materials
- d) programme of works (including measures for traffic management)
- e) provision of boundary hoarding behind any visibility zones
- f) HGV deliveries and hours of operation
- h) on-site turning for construction vehicles

**Reason:** In order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to accord with the provisions of policy CS16 of the Core Strategy 2007.

- (10) The development hereby approved shall not be first occupied 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. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.

**Reason:** In order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to accord with the provisions of policy CS16 of the Core Strategy 2007.

- (11) The development hereby approved shall not be occupied unless and until at least 20% of the available parking spaces are provided with a fast charge socket (current minimum requirement:

7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to accord with the provisions of policy DM36 of the Development Management Policies Document 2015

- (12) The residential units hereby approved shall not be occupied until they have achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with Policy DM12 of the Development Management Policies 2015.

- (13) Prior to the first occupation of the new building, "woodcrete" soffit bird and bat boxes, as well as swift and bee bricks, shall be installed in accordance with details submitted to and approved by the local planning authority. The boxes shall be retained thereafter.

**Reason:** To conserve and enhance biodiversity as required by Policy CS3 of the Core Strategy 2007.

- (14) Prior to occupation of the development hereby permitted, detailed elevations, locations and plans of the proposed secure cycle, refuse and recycling storage shall be submitted to and approved by the council. The approved details will then be retained in perpetuity or the lifetime of the development hereby approved or until the grant of planning permission explicitly states otherwise.

**Reason;** In order that the development should not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy (2007).

- (15) The development shall be carried out strictly in accordance with the Arboricultural Method Statement (Rev 1) Ref: CC/1880 AR4113, and Tree Protection Plan TPP-CC/1880 AR4113 REV 1. The development shall be carried out in accordance with the agreed details and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with the Tree Protection Plan. Within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of above or below ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the local planning authority. The fencing shall be maintained in accordance with the approved details, until all equipment, machinery and surplus materials have been moved from the site.

**Reason:** To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

- (16) All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar

size, species and number, unless otherwise agreed in writing by the local planning authority.

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

- (17) Excavation within the root protection area shall be undertaken by hand under arboricultural supervision as indicated on the Tree Protection Plan TPP-CC/1880 AR4113 REV 1

**Reason:** To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

- (18) All new photo voltaic panels or tiles shall be fitted flush with the adjoining roof surface and shall not project beyond the plane of the roof.

**Reason:** To safeguard the visual amenities of the area and to ensure a satisfactory appearance to the buildings in accordance with policy DM9 and DM10 of the Development Management Policies Document 2015

- (19) The flank windows in the upper floors and roofslope of the development hereby permitted shall be glazed with obscure glass of no less than obscurity level 3 and permanently fixed shut, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.

**Reason:** To safeguard the privacy of the occupants of adjoining properties in accordance with Policy DM10 of the Development Management Policies 2015.

**Informative(s):**

- (1) The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 38 of the National Planning Policy Framework 2018.
- (2) The water efficiency standard required under condition 11 has been adopted by the local planning authority through the Development Management Policies 2015. This standard is the 'optional requirement' detailed in Building Regulations 2010, Part G Approved Document (AD) Buildings Regulations (2015), at Appendix A paragraph A1.

The applicant is advised that this standard can be achieved through either:

(a) using the 'fittings approach' where water fittings are installed as per the table at 2.1 in the AD or

(b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

- (3) This form of development is considered liable for the Community Infrastructure Levy (CIL). CIL is a non-negotiable charge on new developments which involve the creation of 100 square metres or more of gross internal floorspace or involve the creation of a new dwelling, even when this is below 100 square metres. The levy is a standardised, non-negotiable charge expressed as pounds per square metre, and are charged on the net additional floorspace generated by a development.

You will receive more information regarding the CIL in due course.

More information and the charging schedule are available online:

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

- (4) No construction work shall be carried out in such a manner as to be audible at the site boundary before 07:30 hours or after 18:30 hours Monday to Friday; no construction work shall be audible at the site boundary before 08:00 or after 13:00 hours on Saturdays and no construction work of any nature shall be carried out on Sundays or Bank/Public Holidays.
- (5) The applicant is informed that the Highway Authority (HA) would seek to secure a S278 agreement prior to works commencing, due to the location of the central pedestrian crossing, as this is also considered to obstruct construction vehicle access and thus impact on the safe movement of pedestrians and free flow of traffic. The HA highlight that this aspect can take up to six months and it is recommended that the applicant enter into a S278 agreement at the earliest point.

## **Kings Arms Public House 144 East Street Epsom KT17 1EY**

Variation of Condition 2 (Approved drawings) of planning permission 18/00315/FUL to permit minor revisions to the elevations and fenestration of the proposed new building.

<b>Ward:</b>	<b>Ewell Ward;</b>
<b>Contact Officer:</b>	<b>John Robinson</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: <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PUQM6FGY0DE00>

### **2 Summary**

- 2.1 This application seeks amendments to the approved application, ref: 18/00315/FUL, comprising changes to the exterior cladding, changes to the size and positioning of windows on the elevations, and changes to the layout.
- 2.2 The proposal would accord with the residential, environmental and highways policies contained in the Local Development Framework Core Strategy 2007 and the Development Management Policies Document 2015.
- 2.3 The application is therefore recommended for APPROVAL, subject to the issue of a new S106 agreement (under the same terms as the previously approved application (ref: 18/00315/FUL) and conditions.

### **3 Site description**

- 3.1 The application site which is located on the southern side of East Street was previously occupied by the Kings Arms Public House, a locally Listed Building.
- 3.2 Facing the site across East Street are residential two storey terraced dwellings in Middle Close. Immediately to the west of the site is the rear garden to the semi-detached residential dwelling at 142 East Street. To the east, are three-storey residential flats "The Stanford's, and to the south are three-storey residential flats on Yeomanry Close.

- 3.3 There are trees along the southern boundary and shrubbery along the western boundary that provide amenity to the site and to the adjacent residential occupiers. The site previously contains a Tree Protection Order, (184/T1), for a Horse Chestnut Tree near its south boundary, which has been felled due to decay.
- 3.4 Planning permission (18/00315/FUL) was granted in May 2019 for the demolition of the existing building and the erection of two linked four-storey buildings to provide 21 self-contained flats and associated development including hard and soft landscaping, car and cycle parking and refuse store.

#### **4 Proposal**

- 4.1 This application seeks to vary Condition 2 (Approved drawings) of the approved planning permission (18/00315/FUL) in order to permit amendments to the design which affect the plan layout of the third floor, the external cladding materials on the elevations and the window locations and sizes on the rear, front and flank elevations.
- 4.2 The amendments would comprise the following:
- Changes to the cladding from aluminium composite panels to “Cedral” fibre cement panels
  - A panel is substituted for the main entrance at front and rear with a single leaf door, rather than double leaf.
  - At roof level a small terrace is proposed for Plot 19.
  - A Juliet balcony is shown on the rear elevation at first and second floor levels for the terraces of Plots 10 and 16.
  - One of the pair of windows on the side elevation for the living/dining room of Plot 21 is omitted.
  - The windows on the rear elevation of the central link are omitted at first, second and third floor levels and replaced by a window on the side elevation to the central stairway.
- 4.3 The applicants submit that the amendments are required for the following reasons;
- To address discrepancies between the floor plans and elevation drawings shown on some of the approved plans.
  - To improve the living accommodation for the flats by the introduction of en suite bathrooms.
  - Improvements to the outlook of ground floor flats by the reduction of door/window openings facing onto the bin store.
  - Improvements of window positioning to some rooms.
  - Substitution of cementitious weatherboarding for the aluminium cladding panels.
  - Glazing substituted with weatherboard to rear of link and window added to stairwell to improve natural lighting.
  - Alterations at third floor level to improve roof terraces and access thereto.

**5 Comments from third parties**

5.1 The application was advertised by means a site and press notice as well as letters of notification to 50 neighbouring properties. To date (11.12.2019) 2 letters of objection have been received regarding:

- overbearing, out of style and character
- Parking
- Noise and disturbance
- Loss of public house
- A redundant crossover is shown as being retained at the south western end of the frontage.

**6 Consultations**

6.1 Conservation Officer: No objections

6.2 Highways Officer: No objections

## 7 Relevant planning history

Application number	Decision date	Application detail	Decision
17/01209/FUL	31.01.2018	Erection of a three-storey building on land adjacent to public house building to provide 8 self-contained flats (3x1bed, 3x2 bed 2x3 bed) and associated hard and soft landscaping, car and cycle parking and refuse store and the demolition of a single storey annexe extension to Kings Arms Public House (as amended)	REFUSED  Dismissed on appeal 19/02/2019
18/00315/FUL	02.05.2019	Demolition of existing building and erection of two linked four-storey buildings to provide 21 self-contained flats and associated development including hard and soft landscaping, car and cycle parking and refuse store	GRANTED

## 8 Planning Policy

National Policy Planning Framework (NPPF) 2019

Core Strategy 2007

- Policy CS1 Creating Sustainable Communities
- Policy CS5 The Built Environment
- Policy CS6 Sustainability in New Developments
- Policy CS7 Housing Need
- Policy CS8 Housing Delivery
- Policy CS9 Affordable Housing
- Policy CS13 Community, Cultural and Built Sports Facilities
- Policy CS16 Managing Transport and Travel

Development Management Policies Submission Document November 2014

- Policy DM5 Trees and Landscape
- Policy DM8 Heritage Assets



Policy DM9	Townscape Character and Local Distinctiveness
Policy DM10	Design Requirements for New Developments
Policy DM11	Housing Density
Policy DM12	Housing Standards
Policy DM19	Development & Flood Risk
Policy DM21	Meeting Local Housing Needs
Policy DM22	Housing Mix
Policy DM34	New Social Infrastructure
Policy DM35	Transport and New Development
Policy DM36	Sustainable Transport for New Development
Policy DM37	- Parking Standards

Nationally Prescribed Space Standard - March 2015

## **9 Planning considerations**

### Principle of Development

- 9.1 The principle of the demolition of the public house and the erection of a residential scheme has been established by way of the previously approved planning application (18/00315/FUL) granted in May 2019.

### Visual Impact

- 9.2 Policies DM9 and DM10 encourage high quality development and planning permission will be granted for proposals that make a positive contribution to the Borough's visual character and appearance.
- 9.3 The proposed change in the cladding from the proprietary aluminium sheet cladding to "Cedral" fibre cement cladding would maintain the original design concept of the approved scheme, and would arguably be more durable particularly at ground level where it would be vulnerable to accidental damage.
- 9.4 The rearrangement of the fenestration, the addition/omission of windows, the addition of Juliette balconies and a small roof terrace would be minor and neutral design interventions, and individually and cumulatively would not have a detrimental impact on the appearance of the approved scheme or have a harmful impact on the streetscene

- 9.5 The proposed amended scheme would therefore comply with Policy DM9 and DM10.

Residential Amenity

- 9.6 Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policies Document 2015 seeks to safeguard residential amenities in terms of privacy, outlook, sunlight/daylight, avoidance of visual intrusion and noise and disturbance.
- 9.7 The additional windows proposed would serve a stairwell and would face the blank wall of the new building.
- 9.8 The proposed amendments would not have a harmful impact on residential amenity and the scheme would therefore comply with Policy DM10.

Community Infrastructure Levy

- 9.9 The scheme would be CIL liable.

**10 Conclusion**

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

**11 Recommendation**

Part A

- 11.1 The Committee authorise the Head of Planning to grant planning permission subject to the conditions detailed below. Subject to a new legal agreement (under the same terms as the extant agreement) being completed and signed by the 31 March 2020 to secure the following previously agreed and secured heads of terms:

11.2

- A commuted sum of **£110,164** in lieu of the on-site provision of
- affordable housing
- In the event that the slab level is not completed within three years from the date of the planning permission a revised viability appraisal shall be submitted.
- Residential Travel Information Pack

Part B

- 11.3 In the event that the section 106 Agreement referred to in Part A is not completed by 31 March 2020, the Head of Planning be authorised to refuse the application for the following reason:

- In the absence of a completed legal obligation under section 106 of the Town and Country Planning Act 1990 (as amended) the applicant has failed to comply with Policy CS5 of the Core strategy 2007.

**Condition(s):**

- (1) The development hereby permitted shall be commenced within 3 years from the 2 May 2019, the date of the originally approved application 18/00315/FUL that is subject to this application to variation.

**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 2005.

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

Proposed Site Layout	1355-PIn-001A
Proposed Ground and First floor plans	1355-PIn-002A
Proposed Second and Third floor plans	1355-PIn-003A
Proposed North West (Front) elevation	1355-PIn-004A
Proposed South West (Side) elevation	1355-PIn-005A
Proposed South East (Rear) elevation	1355-PIn-006B
Proposed South West (Side) elevation	1355-PIn-007A
Existing and Proposed North West (front) elevation	1355-PIn-009A
Existing and Proposed North East (side) elevation	1355-PIn-010A
Existing and Proposed South East (rear) elevation	1355-PIn-011B
Existing and Proposed South West (side) elevation	1355-PIn-012A
North West Front Elevation (Coloured)	1355-PIn-013
South West Side Elevation (Coloured)	1355-PIn-014
South East Rear Elevation (Coloured)	1355-PIn-015A
North East Side Elevation (Coloured)	1355-PIn-016
Proposed Roof Plan	1355-PIn-017

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

- (3) Prior to the commencement of development, details and samples of the materials to be used for the external surfaces of the development, including windows and doors, 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:** In the interest of safeguarding visual amenity in accordance with Policy CS5 of the Core Strategy (2007) and Policy DM10 of the Development Management Policies Document (2015).

- (4) Sample panels of all of the external materials demonstrating the colour, texture, face bond and pointing are to be erected on site and approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved details before the building is occupied.

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

- (5) No development, with the exception of demolition, shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority.

**Reason:** The site is of high archaeological potential and it is important that the archaeological information should be preserved as a record before it is destroyed by the development in accordance with Policy CS5 of the Core Strategy (2007).

- (6) No development, other than demolition, shall commence until a scheme of hard and soft landscaping has been submitted to the Local Planning Authority for approval, which shall include indications of all existing trees on the land, and details of any to be retained, together with measures for their protection, in the course of development. The scheme shall indicate the location and species of plants and trees to be planted on the site (including the location and details of three tree pits along the highway frontage). 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 of planted removed, dying, being damaged or becoming diseased within that period shall be replaced in the next

**planting season with others of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.**

**Reason: To ensure that the tree(s) receive the appropriate treatment and that the tree work is of a satisfactory standard to protect amenity in accordance with Policies CS1 and CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.**

- (7) No site clearance or building operations shall commence on site until the protective fencing and other protection measures as shown on the TREE SURVEY, ARBORICULTURAL IMPLICATION ASSESSMENT dated June 2018 have been installed. At all times until the completion of the development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.**

**Reason: To ensure the provisions and maintenance of soft landscaping, in the interest of visual amenity as required by Policy DM5 of the Development Management Policies Document 2015 and in the interest of environmental sustainability as required by Policies CS1 and CS4 of the Core Strategy 2007.**

- (8) Before any occupation of the development hereby permitted, the flank window of Flat T2 on the third floor shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing of a patterned type only which shall thereafter be retained as such. Obscure glazed windows should be obscured to minimum of level 3 of the Pilkington Scale. The use of any type of film or material affixed to clear glass is not acceptable for the purposes of this Condition.**

**Reason: To protect the amenities and privacy of the adjoining residential properties in accordance with Policy DM10 of the Development Management Policies Document 2015.**

- (9) Before any occupation of the development hereby permitted, the balconies to Flat F6 (first and second floor) and Flat T4 (third floor) shall be provided with 1.7m high flank privacy screens, which shall thereafter be retained as such.**

**Reason: To protect the amenities and privacy of the adjoining flats in accordance with Policy DM10 of the Development Management Policies Document 2015**

- (10) Electric charging points shall be installed in 3 of the allocated parking spaces at the development. The charging points shall be**

supplied with an independent 32amp radial circuit and must comply with BS7671. Standard 3 pin, 13 amp external sockets will be required. The sockets shall comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

**Reason:** To protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people in accordance with guidance under Paragraph 110 of the NPPF 2018.

- (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 national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.

b) Evidence that the proposed solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events, during all stages of the development (Pre, Post and during), associated discharge rates and storages volumes shall be provided using a maximum Greenfield discharge rate of 1 l/s.

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

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

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

f) 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.

**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 C6 of the Core Strategy 2007

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

**Reason:** To ensure the Drainage System is constructed to the National Non-Statutory Technical Standards for SuDS, in accordance with Policy C6 of the Core Strategy 2007

- (13) The development hereby approved shall be constructed in accordance with the sustainable construction techniques and energy efficient measures outlined in the Sustainability Statement dated April 2018 unless otherwise agreed in writing with the local planning authority.

**Reason:** In order to promote sustainable construction in accordance with Policy CS6 of the Epsom and Ewell Core Strategy (2007).

- (14) 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 will then be retained in perpetuity or the lifetime of the development hereby approved or until the grant of planning permission explicitly states otherwise.

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

- (15) 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 should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and Policy DM 37, of the Development Management Policies Document 2015.

- (16) 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) vehicle routing**
- (g) measures to prevent the deposit of materials on the highway**
- (h) on-site turning for construction vehicles**
- (i) hours of construction**

**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 should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and Policy CS16 of the Core Strategy 2007**

- (17) The development hereby approved shall not be first occupied unless and until the following facilities have been provided in accordance with the approved plans for;**

**(a) secure parking for a minimum of 35 bicycles within the development site, and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.**

**Reason: In order that the development should not prejudice highway safety, nor**

**cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and Policy CS16 of the Core Strategy 2007.**

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

**Reason: In order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and Policy CS16 of the Core Strategy 2007.**



- (19) The development hereby approved shall not be first occupied unless and until the two Western most existing accesses from the site to East Street have been permanently closed and any kerbs, verge, footway, fully reinstated.

**Reason:** In order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and to accord with the National Planning Policy Framework 2018 and Policy CS16 of the Core Strategy 2007

- (20) Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations shall not take place other than between the hours of 08.00 to 18.00 hours Mondays to Fridays; 08.00 to 13.00 hours Saturdays; with no work on Saturday afternoons (after 13.00 hours), Sundays, Bank Holidays or Public Holidays.

**Reason:** In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies 2015.

- (21) Prior to the commencement of development, details/sections of all eaves, parapets, windows (including head, sill and window reveal details), rainwater goods, extraction ducts, balustrades, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- (22) Prior to the commencement of development, details/sections of all eaves, parapets, windows (including head, sill and window reveal details), rainwater goods, extraction ducts, balustrades, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

**Informatives:**

- (1) 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 fact that this planning permission is liable for Community Infrastructure Levy payments (CIL).
- (3) If proposed site works affect an Ordinary Watercourse, Surrey County Council as the Lead Local Flood Authority should be contacted to obtain prior written Consent. More details are available on our website.
- (4) If proposed works result in infiltration of surface water to ground within a Source Protection Zone the Environment Agency will require proof of surface water treatment to achieve water quality standards.
- (5) A pedestrian inter-visibility splay of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.
- (6) The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, or verge to form a vehicle crossover to install dropped kerbs. Please see:  
  
[www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehiclecrossovers-or-dropped-kerbs](http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehiclecrossovers-or-dropped-kerbs)
- (7) The developer is advised that as part of the detailed design of the highway works required by the above conditions, 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.
- (8) 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).

- (9) The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding or any other device or apparatus for which a licence must be sought from the Highway Authority Local Highways Service.
- (10) 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
- (11) 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-vehicleinfrastructure.html>

for guidance and further information on charging modes and connector types.

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**Odeon Cinema, 16 - 18 Upper High Street, Epsom, KT17 4QJ**

<b>Ward:</b>	<b>Town Ward;</b>
<b>Contact Officer:</b>	<b>Tom Bagshaw</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: <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PW9T2XGYFU000>

**2 Summary**

- 2.1 The applicant is seeking the variation of the current cinemas opening hours to allow the cinema to trade from 08:00 on every day of the week. The permitted and current closing times remain unaffected by the proposal.
- 2.2 The proposal would not result in any unacceptable impacts upon the highway network, it is in a sustainable location with adequate parking provision already in place for the existing use.
- 2.3 The site is located within the town centre and in an area with other business trading at 08:00. The hours are not considered to be unsociable and would not unacceptably impact the amenity of any nearby properties.
- 2.4 The proposed variation of Condition 7 is considered to be acceptable subject to regulatory conditions attached to the original planning permission.

**3 Site description**

- 3.1 The applicant property comprises The Odeon Cinema, which is located on the southern side of Upper High Street. It falls within the defined Primary Shopping area of the town centre.
- 3.2 The property is bounded to the west by a parade of shops, and to the east by mixed use development comprising ground floor retail, with residential flats above. To the rear (south) the building backs onto Depot Road, which provides access to the Depot Road car park.

- 3.3 The cinema currently benefits from the following opening times: 09:30 – 24:00 Monday to Wednesdays, 09:30 – 01:00 Thursdays, 09:30 – 02:00 Friday to Saturday, and 11:00 – 24:00 Sundays

#### **4 Proposal**

- 4.1 The applicant is seeking the variation of Condition 7 of planning consent EPS/97/0462 to amend opening hours to be able to open at 08:00am.

- 4.2 For the purposes of clarity the proposed opening hours are:

Monday 08:00 hours – 24:00 hours.

Tuesday 08:00 hours – 24:00 hours.

Wednesday 08:00 hours – 24:00 hours.

Thursday 08:00 hours – 01:00 hours (Friday).

Friday 08:00 hours – 02:00 hours (Saturday).

Saturday 08:00 hours – 02:00 hours (Sunday).

Sunday 08:00 hours – 24:00 hours.

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

- 5.1 The application was advertised by means of letters of notification to 34 neighbouring properties. To date (04.11.2019) 0 letters of objection have been received.

#### **6 Consultations**

- 6.1 Environmental Health – No Objection

## 7 Relevant planning history

Application number	Decision date	Application detail	Decision
97/00462/FUL	19/02/1998	14b-18 UPPER HIGH STREET, EPSOM - Demolition of existing buildings. Erection of 8 screen multiplex cinema of approximately 4830m2 floor area:	GRANTED
12/00992/REM	21/02/2013	Variation of Condition 7 (Opening Hours) of planning permission EPS/97/0462 to allow for extended opening hours on Monday to Saturdays until 02h30 and until 01h30 on Sundays.	REF - Refuse

## 8 Planning Policy

### National Policy Planning Framework (NPPF) (2019)

Chapter 7	Ensuring the vitality of town centres
Chapter 8	Promoting healthy and safe communities
Chapter 9	Promoting sustainable transport

### Core Strategy (2007)

CS5	Conserving and Enhancing the Quality of the Built Environment
CS14	Supporting Epsom Town Centre and Local Centres
CS16	Managing Transport and Travel

### Development Management Policies Document (2015)

DM9	Townscape Character and Local Distinctiveness
DM10	Design Requirements for New Developments (including House Extensions)
DM36	Sustainable Transport for New Development

### Plan E (2011)

E4	Town Centre Primary Shopping Area and Primary & Secondary Retail Frontages
E5	Town Centre employment floorspace provision
E6	Leisure, cultural and community facilities provision

## **9 Planning considerations**

### Opening hours

- 9.1 Variation of Condition 7 of planning consent 97/00462/FUL to amend opening hours to be able to open at 08:00am.
- 9.2 The proposal will enable the premises to operate for an extra 1.5 hours a day Monday to Saturday, and 3 hours on Sunday.
- 9.3 The cinema would be able to open and offer café services earlier in the morning and also be able to open for screenings at earlier times. This would be benefit for people who may need more flexibility regarding when they can visit the cinema.

### Amenity Impact

- 9.4 The site is situated within the heart of the Town Centre, and within the designated Shopping Area, where there is significant activity throughout the day.
- 9.5 The scope of the proposals is very marginal by comparison to the current opening hours, and the proposed extension will bring the hours in line with the commercial activity elsewhere in the vicinity.
- 9.6 The nature of the premises and the related ancillary activities is such that the proposal would not result in any harmful impacts on residential amenity by reason of noise or disturbance.
- 9.7 The proposed extension to operating hours of the cinema complex is not considered to result in any unacceptable impacts on the existing levels of amenity.

### Transport Matters

- 9.8 The modest extension of the morning opening hours will not place any additional strain on the local highway network, nor will the proposal increase vehicular traffic or noise associated with any servicing.
- 9.9 The site's location benefits from excellent public transport accessibility, and furthermore there is significant public car parking facilities within the local and adjacent car parks.

### Community Infrastructure Levy

- 9.10 This proposed amendment would not be CIL liable

## **10 Conclusion**

- 10.1 This application seeks permission for the extended operation of the restaurant, to enable trading from 8:00am seven days a week.



- 10.2 The increased hours would allow the site to operate during increased hours and would not be during unsociable times of day.
- 10.3 The proposals will not have an adverse impact on the amenity afforded to local residents, the local highway network.
- 10.4 The proposed Section 73 amendment to Condition 7 of planning permission 97/00462/FUL is therefore considered to be acceptable in this regard.

## **11 Recommendation**

- 11.1 APPROVAL Subject to Conditions

### **97/00462/FUL Conditions:**

- (1) **Details of materials used for the external surfaces of the development shall be those which were submitted to and approved by the Borough Council in planning application 97/00462/FUL. No variation of approved materials shall take place without consent in writing of the Borough Council**

**Reason: To enable the Borough Council to exercise control over the type and colour of the materials so as to secure the satisfactory appearance in the interests of the visual amenities and character of the locality**

- (2) **No trenches, pipe runs for services and drains shall be sited within 4.5 metres of the trunk of any tree retained on the site**

**Reason: To enable the Borough Council to ensure the retention of trees on the site, protected from damage in the interests of visual amenity.**

- (3) **The premises shall be used for cinema purposed (D2) only, and no other purpose (including any other purpose in Use Class D2 of the Schedule to the Town and Country Planning (Use Classes Order 2015).**

**Reason: to ensure a satisfactory form of use of the premises.**

- (4) **The premises hereby permitted shall only be open to members of the of the public between the hours of:**

**Monday 08:00 hours – 24:00 hours.**

**Tuesday 08:00 hours – 24:00 hours.**

**Wednesday 08:00 hours – 24:00 hours.**

**Thursday 08:00 hours – 01:00 hours. Friday**

**Friday 08:00 hours – 02:00 hours. Saturday**

**Saturday 08:00 hours – 02:00 hours. Sunday**

**Sunday 08:00 hours – 24:00 hours.**

**Reason: In order to safeguard the amenities of the locality**

- (5) The footway link identified in the original permission (97/00462/FUL) from upper High Street to Depot Road shall be constructed to an adoptable standard and shall be maintained to that standard thereafter and shall remain open for the use of all members of the public at all times.**

**Reason: To ensure a satisfactory means of pedestrian access to the development and for all members of the public**

- (6) There shall be no means of access from Upper High Street**

**Reason: the above condition is required in order that the development should not prejudice highway safety, the free flow of traffic nor cause inconvenience to other highway users**

- (7) In the event that a pedestrian link between the Upper High Street and Depot Road car park is not provided by the cinema operator must prevent pedestrians from exiting the cinema via any other exit than the Upper High Street except in exception or emergency situations.**

**Reason: in the interest if pedestrian safety**

- (8) The illumination of the site shall be carried out in accordance with the details submitted in application 97/00462/FUL**

**Reason: To preserve the amenities of the area.**

- (9) The odour control of the site shall be carried out in accordance with those details as submitted within application 97/00462/FUL.**

**Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties**

- (10) The noise and vibration control of the site shall be carried out in accordance with those details as submitted within application 97/00462/FUL.**

**Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties**

- (11) No deliveries or servicing of the premises shall take place from Upper High Street or Depot Road between the hours of 07:30 and 09:30 and between 16:30 and 18:30 Mon-Fri, and between the hours of 08:30 and 17:30 on Saturday.**

**Reason: To ensure that the development does not prejudice the free flow of traffic on condition of safety on the highway or cause inconvenience to other highway users**

**Informative:**

- (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**

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## **Town Hall Car Park, Dullshot Green, Epsom, Surrey, KT17 4NY**

Application for certificate of lawful use in respect of hand washing at Hope Lodge and Town Hall Car Parks.

<b>Ward:</b>	<b>Town Ward;</b>
<b>Contact Officer:</b>	<b>Tom Bagshaw</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:** <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PYR2M2GY0DE00>

- 1.2 The application is referred to the Planning Committee as the proposal is the Borough council is the applicant and is upon Council owned land.

### **2 Summary**

- 2.1 This application relates only to the lawful use of the site in a planning context and does not constitute the granting of a license.
- 2.2 The applicant is seeking a Certificate of Lawful Use to regularise the operation of a hand car wash within the Hope Lodge and Town Hall Car Parks.
- 2.3 The Town and Country Planning Act 1990 (as amended) has a provision within section 171 (3) which states that if an applicant can demonstrate that the continuous use of the site has been established over a period of ten years a Certificate of Lawful Use should be granted.
- 2.4 The applicant has supplied an affidavit and copies of operation licenses dating back from 2004.
- 2.5 Therefore it has been demonstrated that the use has been established for a minimum period of 15 years and which exceeds the minimum requirement of ten years.
- 2.6 A Certificate of lawful Use can therefore be granted under Section 191 of The Town and Country Planning Act 1990 (as amended).

### **3 Site description**

- 3.1 The application relates two council car parks located at the Town Hall and Hope Lodge and are located centrally within in Epsom Town Centre.
- 3.2 The service is offered by operatives across the whole car park area and can take place within any bay. The service is therefore not restricted to specific bays.

### **4 Proposal**

- 4.1 This application is for a Certificate of Lawful Use for hand car washing at Hope Lodge and Town Hall Car Parks.
- 4.2 This application is seeking a to establish the Lawful Use of the site for the hand washing of cars via section 191 of The Town and Country Planning Act 1990 (as amended) due to it being in continuous use for a period of more than ten years.

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

- 5.1 Certificate of Lawfulness are not required to undergo a process of public consultation.

### **6 Consultations**

- 6.1 Not relevant for this application.

### **7 Relevant planning history**

- 7.1 None relevant.

### **8 Legislative Framework**

- 8.1 Town and Country Planning Act 1990 (as amended)

### **9 Planning considerations**

- 9.1 The sole consideration is whether the applicant has provided sufficient evidence and information to demonstrate that current use upon the site is lawful.
- 9.2 Section 171 and 191 of the Town and Country Planning Act 1990 (as amended) are applicable and key to the consideration of this case.

#### **Section 171**

- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

#### **Section 191**

Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;
- (b) any operations which have been carried out in, on, over or under land are lawful; or
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

- (a) the time for taking enforcement action in respect of the failure has then expired; and
- (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

- (a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,
- (b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
- (c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall—

- (a) specify the land to which it relates;
  - (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
  - (c) give the reasons for determining the use, operations or other matter to be lawful; and
  - (d) specify the date of the application for the certificate.
- (6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.
- (7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—
- (a) section 3(3) of the Caravan Sites and Control of Development Act 1960 [or section 7(1) of the Mobile Homes (Wales) Act 2013;]
  - (b) section 5(2) of the Control of Pollution Act 1974; and
  - (c) section 36(2)(a) of the Environmental Protection Act 1990.

#### Evidence

- 9.3 The applicant has provided an affidavit for the period from 2008 to present and car park valet licenses for the following time periods
- 9.4 Car Parking Licence – 1<sup>st</sup> July 2008 until 30<sup>th</sup> June 2009
- Car Parking Licence – 1<sup>st</sup> July 2009 until 30<sup>th</sup> June 2010
- Car Parking Licence – 1<sup>st</sup> July 2010 until 30<sup>th</sup> June 2012
- Car Parking Licence – 1<sup>st</sup> January 2013 until 31<sup>st</sup> December 2013
- Car Parking Licence – 1<sup>st</sup> January 2014 until 31<sup>st</sup> December 2014
- Car Parking Licence – 1<sup>st</sup> January 2015 until 31<sup>st</sup> December 2015
- Car Parking Licence – 1<sup>st</sup> January 2016 until 31<sup>st</sup> December 2016
- The applicant has provided an Affidavit to confirm continuous use of the site from 1<sup>st</sup> of January 2017 until 31<sup>st</sup> of December 2017
- Car Parking Licence – 1<sup>st</sup> January 2018 until 30<sup>th</sup> June 2018
- The applicant has provided an Affidavit to confirm continuous use of the site from 1<sup>st</sup> of June 2018 until 26<sup>th</sup> of November 2019
- 9.5 As shown the car parking license has been in operation for a 11 year time period which exceeds the ten year requirement set out in section 171 (3) of The Town and Country Planning Act 1990 (As Amended)



- 9.6 The proposed development can therefore be granted a Certificate of Lawful Use under Section 191 of The Town and Country Planning Act 1990 (As Amended).

## **10 Conclusion**

- 10.1 It has been demonstrated that the site has been in continuous use as a hand car wash for a period of more than 10 years and as such, is in accordance with section 171 (3) of The Town and Country Planning Act 1990 (as amended) in this regard. A Certificate of Lawful Use can therefore be issued under Section 191 (Lawful Development Existing Use) of the Town and Country Planning Act 1990 (as amended).

## **11 Recommendation**

- 11.1 Certificate of Lawful Use approved under Section 191 of the Town and Country Planning Act 1990 (as amended)

Reason: The use has been in continuous operation for a period of greater than ten years in accordance with section 171 (3) The Town and Country Planning Act 1990 (as amended)

### **Informative:**

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

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## **Car Park, Upper High Street, Epsom, Surrey, KT17 4QY**

Application to establish the lawful status of the existing use of part of car park for hand car washing

<b>Ward:</b>	<b>Town Ward;</b>
<b>Contact Officer:</b>	<b>Tom Bagshaw</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: <http://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PZ7J1EGY0DE00>

- 1.2 The application is referred to the Planning Committee as the proposal is the Borough council is the applicant and is upon Council owned land.

### **2 Summary**

- 2.1 This application relates only to the lawful use of the site in a planning context and does not constitute the granting of a licence. The applicant is seeking a Certificate of Lawful Use to regularise the operation of a hand car wash within the Epsom Town Hall Car Park.
- 2.2 The Town and Country Planning Act 1990 (as amended) has a provision within section 171 (3) which states that if an applicant can demonstrate that the continuous use of the site has been established over a period of ten years a Certificate of Lawful Use should be granted.
- 2.3 The applicant has supplied copies of operation licenses dating back until 2005.
- 2.4 Therefore it has been demonstrated that the use has been established for a minimum period of 14 years and which exceeds the minimum requirement of ten years.
- 2.5 A Certificate of Lawful Use can therefore be granted under Section 191 of The Town and Country Planning Act 1990 (as amended).

### **3 Site description**

- 3.1 The application relates to the main car park serving Epsom Town Hall and is located centrally within in Epsom Town Centre. The site is located within the Epsom Town Centre

- 3.2 The service is offered by operatives across the whole car park area and can take place within any bay. The service is therefore not restricted to specific bays.

#### **4 Proposal**

- 4.1 This application is for a Certificate of Lawful Use for hand car washing currently operating at the Town Hall Car Park, Upper High Street, Epsom,
- 4.2 This application is seeking to confirm the Lawful Use of the site for the hand washing of cars via section 191 of The Town and Country Planning Act 1990 (as amended) due to it being in continuous use for a period of more than ten years.

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

- 5.1 Certificate of Lawfulness are not required to undergo a process of public consultation.

#### **6 Consultations**

- 6.1 Not relevant for this type of application.

#### **7 Relevant planning history**

- 7.1 None relevant

#### **8 Legislative Framework**

- 8.1 Town and Country Planning Act 1990 (as amended)

#### **9 Planning considerations**

- 9.1 The sole consideration is whether the applicant has provided sufficient evidence and information to demonstrate that current use upon the site is lawful.
- 9.2 Section 171 and 191 of the Town and Country Planning Act 1990 (as amended) are applicable and key to the consideration of this case.

##### **Section 171**

- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

##### **Section 191**

##### **Certificate of lawfulness of existing use or development.**

- (1) If any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

- (c) give the reasons for determining the use, operations or other matter to be lawful; and
- (d) specify the date of the application for the certificate.
- (6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.
- (7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—
  - (a) section 3(3) of the Caravan Sites and Control of Development Act 1960 [or section 7(1) of the Mobile Homes (Wales) Act 2013;]
  - (b) section 5(2) of the Control of Pollution Act 1974; and
  - (c) section 36(2)(a) of the Environmental Protection Act 1990.

### **Evidence**

- 9.3 The applicant has provided car park valet licenses for the following time periods:

Car Parking Licence - 27th February 2004 until 26th February 2007

Car Parking Licence - 27th February 2007 until 26th February 2009

Car Parking Licence - 27th February 2009 until 26th February 2014

Car Parking Licence - 27<sup>th</sup> February 2014 until 26<sup>th</sup> February 2017

Car Parking Licence - 27th February 2017 until 26th July 2017

The applicant has provided an affidavit to cover the missing period of occupation from 27<sup>th</sup> of July 2017 until 26<sup>th</sup> of November 2019

- 9.4 The evidence demonstrates that the car park valet license has been in operation for a 14 year time period which exceeds the ten year requirement set out in section 171 (3) of The Town and Country Planning Act 1990 (As Amended)
- 9.5 The proposed development can therefore be granted a Certificate of Lawful Use under Section 191 of The Town and Country Planning Act 1990 (As Amended).

### **10 Conclusion**

- 10.1 It has been demonstrated that the site has been in continuous use as a hand car wash for a period of more than 10 years and as such, is in accordance with Section 171 (3) of The Town and Country Planning Act 1990 (as amended) in this regard. A Certificate of Lawful Use can therefore be issued under Section 191 (Lawful Development Existing Use) of the Town and Country Planning Act 1990 (as amended).

## **11 Recommendation**

- 11.1 Certificate of Lawful Use approved under Section 191 of the Town and Country Planning Act 1990 (as amended)

Reason: The use has been in continuous operation for a period of greater than ten years in accordance with section 171 (3) The Town and Country Planning Act 1990 (as amended)

### **Informative:**

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

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## **Tree Preservation Order 37 - Revocation**

<b>Ward:</b>	<b>Stoneleigh Ward;</b>
<b>Contact Officer:</b>	<b>Steven Lewis/Ruth Ormella</b>

### **1 Plans and Representations**

- 1.1 The matter is referred to the Planning Committee in the absence of Delegated Authority and for consideration to the Planning Committee.

### **2 Summary**

- 2.1 TPO. 37 (Tree Preservation Order 37) was created in 1970 and relates to properties 50, 18, 21, 22, 24 Woodstone Avenue, 18A Richlands Avenue, 56, 52, 48, 44 Rosedale Road. This TPO was updated in 1995 with a further TPO (TPO no.303) being placed within the area, protecting those trees that remained.
- 2.2 The records of TPO. 37 are incomplete, with history information missing on a number of trees. The file is also absent of the necessary confirmation letters and accompanying minutes being inaccurate as it records the order as unopposed, where the file indicates that there was a valid objection.
- 2.3 An application was received to amend TPO. 37 in May 2018, seeking to remove a record of an Elm Tree within the curtilage of 18a Richlands Avenue.
- 2.4 Upon a recent inspection of the properties and trees contained within TPO. 37 it is apparent that many of the trees no longer exist and those that do remain are covered by the newer TPO 303 which has a complete record.
- 2.5 It is recommended that the original order TPO 37 be revoked.

### **3 Site description**

- 3.1 The Tree Preservation Order no.37 covers the specific and scheduled trees within the following properties
- 50, 18, 21, 22, 24 Woodstone Avenue
  - 18A Richlands Avenue
  - 56, 52, 48, 44 Rosedale Road
- 3.2 The trees were located within residential gardens of properties.

#### 4 Proposal

- 4.1 The Council is in receipt of an application relating to Tree Preservation Order no. 37 which relates to the Rosedale Road and Woodstone Avenue area in Stoneleigh. The application has been made by the owner of 18A Richlands Avenue, whose property is identified in the property schedule of the Tree Preservation Order. The application seeks to remove the legacy record of an Elm Tree covered by TPO no. 37.

#### 5 Comments from third parties

- 5.1 Not applicable

#### 6 Consultations

- 6.1 Not applicable for this stage of this matter.

#### 7 Relevant history

- 7.1 The history record reveals that TPO 37 was made in 1970

Date	Activity
26/01/1970	Planning Committee agreed to making TPO 37 - Rosedale Road and Woodstone Area
27/02/1970	TPO made covering 1 Elm T2 and 2 Poplars G2 at 18a Richlands Avenue
03/03/1970	Objection to order made by occupant of 44 Rosedale Road (T10 blown down)
01/06/1970	Planning Committee confirmed TPO 37 as an unopposed order
1995	TPO review undertaken of the area
02/04/1996	New TPO No.303 made that protected trees in the area but not in the garden of 18A Richlands Avenue
12/09/1996	TPO 303 confirmed with Modifications

#### 8 Legislative Framework

- 8.1 The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides for the making, amending and revoking of Tree Preservation Orders.
- 8.2 Relevant to this report is section 11 that states:  
**Revocation of tree preservation orders**

11. Where an authority revoke an order they shall—
- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
  - (b) notify the persons interested in the land affected by the order that the order has been revoked; and
  - (c) withdraw from public inspection the copy of the original order made available in accordance with regulation

## 9 Considerations

- 9.1 An application to amend the Tree Preservation Order was received by the Council in May 2018 (ref 18/00263/TPO). It was submitted by the owner of the property 18a Richlands Road.
- 9.2 The application was made invalid upon receipt as it was unclear how the Local Planning Authority should proceed with amending an order where there was no evidence of the loss of trees. The application remains invalid, however the assessment that is required to address the proposed revocation has been undertaken, enabling this report.

### History

- 9.3 18a Richlands Road was granted planning permission in 1967 and built in 1968, prior to the placing of any Tree Preservation Order on the site and adjacent properties. The trees located at 18a Richlands Avenue included two individual Elm trees and one group containing two poplar trees.
- 9.4 A Tree Preservation Order was placed upon the site and other properties in 1970.
- 9.5 The Poplar Trees with the land of 18a Richlands Avenue were granted permission to be felled in 1974, subject to the replanting of two Maples. There is no record of the Elm tree subject of the requested having being consented for felling or being removed from the site.
- 9.6 The Borough conducted a TPO review in 1995 and subsequently placed an order (Number 303) which covered trees in the area but not within the garden of 18a Richlands Avenue and many of the other properties included in the 1970 TPO.

### Tree Preservation Order no. 37 record

- 9.7 The record pertaining to TPO 37 is incomplete. The current Tree Preservation Order record includes TPO Document under Seal and evidence of minutes from the Planning Committee.

- 9.8 The file is absent of the necessary confirmation letters to the subject properties outlined in section 3 of this report. The minutes are also inaccurate as it records the order is unopposed, whereas the file also indicates that there was a timely objection from 44 Rosedale Road, as tree T10 had blown down.
- 9.9 There is no explanation of the absence of confirmation letters and through time spent it is difficult to explain how records were kept and maintained. Notwithstanding this, the Council has maintained the Land Charges Register on the basis of TPO 37 being lawfully made.
- 9.10 In 1995 the TPO was reviewed, leading to the making of TPO 303 in 1996 for which there are full records and details of all subsequent decisions.

Current position of the trees covered by TPO 37

- 9.11 Council's Arboriculturalist attended the affected properties on 7th November 2019 and collated his findings into the following table. In summary those findings are that where there is a tree that is protected, the new TPO 303 accurately details that and provides the protection

Tree No on map.	Species	Situation	Relevant Planning History	Current status	Proposed Action
T1	Silver Birch	50 Woodstone Avenue	Consent granted for felling in 1986 but covered by order 303 made April 1996	There appears to be a semi-mature Birch growing in this position as a replacement tree so the reference in the new TPO 303 is correct.	The record for the previous tree T1 TPO37 be deleted
T2	English Elm	18a Richlands Avenue	None	Elm missing no replacement but established Cypress hedge growing in its place.	The record for the previous tree T2 TPO37 be deleted
T3	English Oak	18 Woodstone Avenue	Tree also protected by order 303 (T3) but permission granted for felling in 2015 subject to replanting.	Oak tree has been removed and a replacement Field Maple has been planted	The record for the previous tree T3 TPO37 be deleted. A file note should be made for TPO 303 that the tree T3 has been replaced by a Field Maple.
T4	English Oak	21 Woodstone Avenue	Tree also protected by order 303 (T4)	Oak tree still present	The record T4 TPO37 be deleted
T5	English Oak	22 Woodstone Avenue	Tree also protected by order 303 (T5)	Oak tree still present	The record T5 TPO37 be deleted
T6	English Oak	24 Woodstone Avenue	Tree also protected by order 303 (T6)	Oak tree still present	The record T6 TPO37 be deleted

T7	English Elm	56 Rosedale Road	Letter on file advising T7 was replaced by a Silver Birch in 2001	Elm missing and no apparent sign of the replacement Birch	The record for the previous tree T7 TPO37 be deleted
T8	English Elm	52 Rosedale Road	None	Elm missing – possible small leaf Eucalyptus planted as replacement further up garden	The record for the previous tree T8 TPO37 be deleted
T9	English Elm	48 Rosedale Road	None	Elm missing no sign of a replacement tree	The record for the previous tree T9 TPO37 be deleted
T10	English Elm	44 Rosedale Road	Letter pre- TPO confirmation in March 1970 that the Elm T10 had blown down prior to the making of the order	Elm missing – there was no replanting requirement	The record for the previous tree T10 TPO37 be deleted

- 9.12 Any trees identified in TPO 37 that required protection are secured by TPO 303 as part of the 1995 / 1996 review. All other trees identified in the original order TPO 37 have been surveyed and confirmed as no longer existing. As such it is identified that there are a number of properties that continue to be identified as being affected by TPO 37 for which there is no longer any reason.

#### Revocation and Process

- 9.13 Within The Town and Country Planning (Tree Preservation) (England) Regulations 2012 there is provision to make, amend and revoke Tree Preservation Orders.

- 9.14 Section 11 of the Order deals with revocation, setting out the requirements as being:

- Endorsement of the original order and specification of a date of revocation
- Notification of the persons interested in the land affected
- Withdrawal of the original order from public inspection

- 9.15 Upon formal revocation, the Land Charges Register for affected properties is updated.

## **10 Conclusion**

- 10.1 It is concluded that TPO 37 has been acting on as though it was lawfully made and confirmed. Council's files have all of the evidence that the TPO.37 was made under seal and reported to the Planning Committee.

10.2 In 1995 the TPO area was reviewed and a new TPO 303 was made and confirmed and continues to provide the protection for those trees which remain in the area.

10.3 Summary of Site Inspection findings in relation to TPO 37 are:

T1 – Deleted

T2 – Deleted

T3 – Is protected by TPO 303

T4 – Deleted

T5 – Deleted

T6 – Deleted

T7 - Deleted

T8 – Deleted

T9 – Deleted

T10 – Deleted

## **11 Recommendation**

11.1 That the Local Planning Authority is authorised to undertake the process of notification and communication with all affected properties as set out in the legislation of the Council's intention to revoke TPO 37.

11.2 In the absence of any objection to the proposed revocation, that Revocation Order be made.

11.3 In the event an objection is received to the proposed revocation, a report considering the objection shall return to Planning Committee for final decision.

### Monthly Report Planning Appeal Decisions

<b>Ward:</b>	<b>(All Wards);</b>
<b>Contact Officer:</b>	<b>Steven Lewis</b>

Report by Steven Lewis, Planning Development Manager/Ruth Ormella, Head of Planning

The Planning Service has received the following Appeal decisions from 20<sup>th</sup> October 2019 to 2<sup>nd</sup> December 2019.

<b>Site Address</b>	<b>Planning reference</b>	<b>Description of development</b>	<b>Decision and Costs</b>
11 Thorndon Gardens, Epsom	APP/P3610/D/19/3233656  19/00076/FLH	Erection of detached front garden outbuilding (use as security box for motorbike storage).	Allowed  No Cost Application
Rear of 44-48 Stoneleigh Broadway, Stoneleigh	APP/P3610/W/19/3229225  19/00178/REM	Variation of plans condition to allow a revised layout and design for the building approved in 2015	Dismissed  No Cost Application
Stone Cottage, Woodcote Park, Epsom	APP/P3610/W/19/3226932  18/00545/FLH	Front porch extension, rear extension, first floor rear extension, loft rooms including new roof and dormer	Allowed  No Cost Application

### Summary of Appeal Decisions:

#### **11 Thorndon Gardens**

The Inspector found that given the design of the outbuilding and its discreet location it appeared compatible with development in the area which included extensions and garaging to the side of properties. Although smaller in scale than nearby development, the discreet location of the outbuilding ensured that it is not overly prominent in the street scene.

#### **44-48 Stoneleigh Broadway**

The Inspector dismissed the case as the proposal would be harmful to the living conditions of the occupiers of 44-50 Stoneleigh Broadway due it providing direct overlooking towards the rear windows of the upper floor flats in an elevated position.

Furthermore a planning obligation to secure affordable housing was not provided by the applicant who had not demonstrated with certainty that the exceptions to affordable housing requirements, as set out in the National Planning Policy Framework applied in this case.

#### **11 The Hawthorns**

The Inspector found that the existing dwelling does not have a symmetrical appearance to its front elevation, that the porch not introduce an unbalancing element that would unacceptably disturb the front elevation and would add variety to the design in the area.

In terms of the side extension it would remove an uncharacteristic flat roof element and the pitched roof design would have a more appropriate finish as it reflected the pitch forms of the existing semi-detached properties.

Dismissed the council's concerns that raising the roof would result in terracing and concluded that the gap would remain appreciable form the street.

Finally concluding that while he needed to depart form the Council's guidance to approve the application.

#### **Net No. of dwellings for which planning permission has been granted**

<b>Month</b>	<b>Committee</b>	<b>Delegated</b>	<b>Appeal</b>
January	0	3	0
February	0	6	1
March	0	17	0
April	32	11	0
May	21	14	0
June	0	7	0
July	109	5	1
August	0	2	3
September	0	10	1
October	13	1	0
November	1	3	0
<b>Total</b>	<b>261</b>		

#### **Annual target 695 dwellings**

It should be noted that the above table and figures only count decisions which have been formally issued, excludes or deducts figures on decisions where there is an extant planning permission to avoid double counting.