

## Sunnybank House 39A East Street Epsom KT17 1BL

Variation of Condition 8 (Contaminated land) of planning permission 17/01755/FUL to permit the verification report to be completed pre-occupation rather than pre-commencement.

<b>Ward:</b>	<b>Town 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=PLQLC7GY0BY00>

### 2 Summary

- 2.1 This application seeks the variation of Condition 8 (Contaminated Land) of planning application 17/01755/FUL, granted in September 2018 by the Planning Committee, to allow the verification report to be completed at the pre-occupation stage instead of the pre-commencement.
- 2.2 The variation of the condition would not result in the development posing unacceptable risks to workers, neighbours and other offsite receptors, and therefore is not contrary to Policy DM17 of 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 extant agreement) and conditions.**

### 3 Site description

- 3.1 The application site was previously occupied by a vacant four storey office building "Bradford House" built in the early 1980s.
- 3.2 The site is located within Epsom town centre boundary on the western side of East Street between Crossways House and "Newplan House". A four storey brick and concrete office building is situated opposite the site.

- 3.3 Planning permission (17/01755/FUL) was granted in September 2018 for the demolition of the existing office building “Bradford House” and the erection of a mixed-use six storey (plus basement) building comprising office floorspace at ground floor level, a student halls of residence containing 99 student bedrooms, and associated landscaping and basement level parking and cycle parking.
- 3.4 Bradford House has now been demolished

#### 4 Proposal

- 4.1 The application seeks the variation of Condition 8 (Contaminated Land). The original condition was worded as follows:

(8) Unless otherwise agreed by the Local Planning Authority, the following must be undertaken prior to any development on site, in accordance with current best practice guidance:

(i) a site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas (including volatile hydrocarbons) and contaminants with the potential to impact sensitive receptors on and off site. The scope and detail of these are subject to the approval in writing by the local planning authority. The results of the investigation and risk assessment shall be submitted to and approved by the Local Planning Authority; and

(ii) if ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management measures shall be designed and submitted to the Local Planning Authority for approval. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and or/ecosystems as required by Policy DM7 of the Development Management Policies

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

(8) Unless otherwise agreed by the Local Planning Authority, the following must be undertaken prior to **the occupation of** any development on site, in accordance with current best practice guidance:

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

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and or/ecosystems as required by Policy DM7 of

## **5 Comments from third parties**

- 5.1 The application was advertised by means of a site and press notice, and letters of notification to 17 neighbouring properties. To date (28.03.2019) no letters of objection have been received.

## **6 Consultations**

- 6.1 Contaminated Land Officer: No objection.

**7 Relevant planning history**

<b>Application number</b>	<b>Decision date</b>	<b>Application detail</b>	<b>Decision</b>
17/01755/FUL	18.09.2018	Demolition of existing office building (Use Class B1a) at Bradford House and erection of a mixed-use six storey (plus basement) building comprising 221.5sqm of office floorspace at ground floor level and a student halls of residence (Use Class Sui Generis) containing 99 student bedrooms. Associated landscaping and basement level parking and cycle parking. (Description amended and revised scheme drawings and associated documents received on 09.05.2018)	Granted
18/01010/REM	06.02.2019	Variation of Condition 19 (Approved drawings) of planning permission 17/01755/FUL to permit amendments to the design which affect the plan layouts of the basement and ground floors, the external materials on the northwest (right) and southwest (left) elevations, and the heights of the parapets.	Granted
18/01012/COND	27.10.2018	Details pursuant to Condition 2 (Materials) 3( Landscaping) 7( Waste Management) 12 ( Access Control) 15 ( CMTP) 17( SuDS) 20 ( Site Levels) of planning permission 17/01755/FUL	Under Consideration
18/01098/COND	31.10.2018	Details pursuant to Condition 23 (Management Plan) of planning permission 17/01755/FUL	Discharged

**8 Planning Policy**

National Policy Planning Framework (NPPF) 2018

Chapter 15: Conserving and enhancing the natural environment

Core Strategy 2007

Policy CS6 Sustainability in New Developments

Development Management Policies Document 2015

Policy DM17 Contaminated Land

## 9 Planning considerations

### Proposed amendment to Condition 8 (Contaminated Land)

- 9.1 The applicant has justified the proposed amendment to condition 8 by stating that the wording used in the original approved application (17/01755/FUL) described the condition as a pre-commencement condition. However, they state that the information required to discharge it can only be provided at the end of the construction period as it refers to the chemical certification analysis of the final top soil dressing provided on the site.
- 9.2 They propose that once the development has been completed they would then complete the soil remediation and landscaping works and present one verification report to the Contaminated Land Officer covering soil remediation approval. Once the verification report has been approved, the condition could be discharged.
- 9.3 The E&E Contaminated Land Officer has considered the proposed amendment and justification and has no objections as the officer acknowledges that *“remedial works would normally be undertaken during the latter parts of the construction process upon nearing completion on site, and this would not be possible with a “pre-commencement” condition imposed”*
- 9.4 It is therefore considered that the proposed variation would not result in the development posing an unacceptable risk to workers, neighbours or any other offsite receptors by the amendment to the contaminated land condition.
- 9.5 The variation in condition will allow the development to progress and is considered to be acceptable.

## 10 Conclusion

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

## 11 Recommendation

### 11.1 Part A

Subject to a new legal agreement (under the same terms as the extant agreement) being completed by 12<sup>th</sup> July 2019 and signed to secure the following heads of terms:

- A Travel Plan Monitoring Fee

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

### 11.2 Part B

In the event that the section 106 Agreement referred to in Part A is not completed by 12<sup>th</sup> July 2019, 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

### Conditions:

- (1) **The development hereby permitted shall be commenced within 3 years from the 18 September 2018, the date of the originally approved application 17/01755/FUL that is subject to this application to variation.**

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

- (2) **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.**

- (3) **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 and the planting of three trees in front of the building, have been 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.

- (4) A report is to be submitted to the Local Planning Authority, within 6 months of the commencement of any use of any part of the building, to demonstrate that the renewable technologies (as detailed in the submitted Sustainability Statement) hereby approved have been fully implemented and are functioning.

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

- (5) The student accommodation 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.

- (6) Prior to the first occupation of the student accommodation, a plan for the management of student arrivals and departures at the start and end of term shall be submitted and approved in writing by the Local Planning Authority. This plan shall confirm that on weekdays and weekends, no students shall be permitted to load and unload from the four, designated, parking bays on-site without the prior arrangement of the site management. There is to be no parking outside of these designated bays for student loading/unloading.

**Reason:** In order that the development should not prejudice highway safety nor cause inconvenience to other highway users as required by policy CS16 of the Core Strategy 2007

- (7) Details of a waste management plan, incorporating provision for refuse storage and recycling facilities on the site, shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The refuse storage and recycling facilities shall be provided prior to the first occupation. The development shall be carried out strictly in accordance with the details so approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority .

**Reason:** In order that the development should take into account the need to minimise the dispersal of waste and facilitates the collection of recyclable waste in accordance with the provisions of Policy CS6 of the Epsom and Ewell Adopted Core Strategy 2007.

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

**Reason:** To control significant harm from land contamination to human beings, controlled waters, buildings and or/ecosystems as required by Policy DM7 of the Development Management Policies 2015.

- (9) The upper floors of Bradford House (and the ground floor area shown as student accommodation on Drawing No BH307-1/211/D) shall be used for student accommodation only and for no other purpose (including any other purpose within Use Class Sui Generis of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).**

**Reason:** To ensure a satisfactory form of use of the premises as required by Policy DM10 of the Development Management Policies 2015.

- (10) Notwithstanding the available permitted development rights under Class N of the GPDO 2013, the ground floor at Bradford House (denoted as "Commercial Area" on Drawing No BH307-1/211/D) shall be used for B1 (Office Use) only and for no other purpose (including any other purpose within Use Class of the Schedule to the Town and**

**Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).**

**Reason: To ensure a satisfactory form of use of the premises as required by Policy DM25 of the Development Management Policies Document 2015.**

- (11) The development hereby approved shall not be first occupied unless and until the proposed vehicular / pedestrian / cycle / modified access to East Street has been constructed in accordance with the approved plans.**

**Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users as required by policy CS16 of the Core Strategy 2007**

- (12) The development hereby approved shall not be first commenced until a scheme detailing the location and operation of the access control mechanism has been submitted to and approved in writing by the Local Planning Authority and thereafter the access control with approved access visibility zones and access ramp shall be kept permanently clear of any obstruction.**

**Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users as required by policy CS16 of the Core Strategy 2007**

- (13) The development hereby approved shall not be first occupied unless and until the existing accesses from the site to East Street as shown on the drawings 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 as required by policy CS16 of the Core Strategy 2007**

- (14) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in for a maximum of 7 cars and 1 disabled space and a minimum of 52 bicycles to be parked securely in accordance with the approved plans for vehicles / cycles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking / 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 as required by policy CS16 of the Core Strategy 2007**

- (15) 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, will not occur between the hours of 0730-0900 and 1630-1800.
  - (g) measures to prevent the deposit of materials on the highway
  - (h) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused - see condition one.

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 as required by policy CS16 of the Core Strategy 2007

- (16) The development hereby approved shall not be first occupied until the following facilities have been provided in accordance with the approved plans and approved in writing by the Local Planning Authority for:
- (a) The secure parking of bicycles within the development site,
  - (b) Facilities within the development site for cyclist to change into and out of cyclist equipment / shower,
  - (c) Facilities within the development site for cyclists to store cyclist equipment,
  - (d) Installation of a fast charge point, for electric vehicle charging
- and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

Reason: In order to promote sustainable development in accordance with Policy CS6 of the Core Strategy 2007.

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

a) Evidence that the proposed 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 discharge rate of 1in1yr 2.6 litres/sec, 1 in 30yr 3.5 litres/sec and 1 in 100 year 4litres/sec utilising a blue roof system (as per the SuDS pro-forma or otherwise as agreed by the LPA).

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

c) 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.

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

e) 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.

- (18) 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.

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

**011/D Proposed Site OS and Site Block Plan**

**012/F Site Landscape Context Plan**

**BH307-1/210/H Basement**

**BH307-1 211\_G Ground Floor GA**

**032/F First and Second Floor GA**

**033/F Third and Fourth Floor GA**

**034/F Fifth Floor and Roof GA**

**086/C Proposed North View**

**085/C Proposed North West Bird's Eye View**

**084/C Proposed View Along East Street to New Building**

**083/C Proposed South East View from West Street**

**082/C Proposed South West View from East Street**

**081/C Proposed North East Bird's Eye View**

**072/E Rendered Elevations Proposed**

**BH307-1 410\_B Front (SE) Elevation**

**BH307-1 411\_B Right (NE) Elevation**

**BH307-1 412\_B Left (SW) Elevation**

**BH307-1 413\_B Rear (NW) Elevation**

**051/F Proposed Section AA**

**052/F Proposed Section BB**

**053/F Proposed Section CC and DD**

**BH307-1 415 Front and Rear Street Elevations**

**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).

- (20) Prior to the commencement of the development, a drawing showing the proposed site levels of the application site and the finished floor

levels of the proposed dwellings 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:** Submission of a scheme prior to commencement will ensure that the development accords with the Development Management Policies Document 2015 Policy DM10. It will also ensure accordance with Section 197 of the Town and Country Planning Act 1990.

- (21) The occupancy of the accommodation hereby permitted shall be limited to university/college students who are enrolled on an educational course within the Borough.

**Reason:** The development is designed for a type of accommodation that is considered to be sui generis and would not be satisfactory for other residential uses.

- (22) All Demolition and or building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/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.

- (23) The development shall be carried out strictly in accordance with the Student Management Plan approved under application 18/01098/COND dated 31.10.2018

**Reason:** To safeguard the amenities of the adjoining residential occupiers in accordance with Policy DM10 (Design Requirements for New Developments) of the LDF Development Management Policies Document (October 2015).

**Informatives:**

- (1) The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 38 of the National Planning Policy Framework 2018
- (2) The water efficiency standard required under condition 12 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:**

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

**using the water efficiency calculation methodology detailed in the AD Part G Appendix A.**

- (3) 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).**