

Development Site At Garages, Ormonde Avenue, Epsom, Surrey*Erection of three no. two-bedroom dwellings*

Ward:	Court Ward
Contact Officer:	Ginny Johnson

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/simpleSearchResults.do?action=firstPage>

2 Summary

- 2.1 A Planning Application seeking the provision of three two-bedroom dwellings at the Application Site ('Site') was taken to Planning Committee on 25 July 2019, with an Officers recommendation for approval. The Planning Committee resolved to approve the Planning Application, subject to a Section 106 (S106) Agreement being completed and signed by 25 October 2019, to secure the dwellings as affordable dwellings for rent.
- 2.2 Officers received a letter from the planning agents at Dowsett Mayhew Planning Partnership, dated 30 September 2019. The letter sets out that whilst the Planning Application was submitted on the basis of the dwellings being provided as affordable dwellings for rent, the signing of a S106 Agreement may prevent the applicant from securing grant funding from Homes England for this project, which will jeopardise its delivery.
- 2.3 The Council has responded to the letter confirming that although a S106 Agreement was not a requirement from the nature of the application, it was agreed one would be requested in light of the assurances given around the availability of the dwellings as affordable housing for rent.
- 2.4 The Applicant's Planning Statement, dated March 2019, provides as follows:

“4.7: It is intended that the dwellings will be provided as affordable dwellings for rent”

“Economic Objective 17.2: The proposed development will deliver three high quality dwellings contribution to the delivery of sustainable new affordable dwellings in the Borough”

“Summary 18.4: The proposed scheme will deliver three new affordable dwellings within the built up area of the Borough in a highly sustainable location. The dwellings would provide high quality homes in an existing residential setting, without detriment to the character of the locality by virtue of their complementary design and massing.”

- 2.5 The main reason given by the Applicant, for not entering into an Obligation to deliver affordable housing as described in their Planning Statement, is around funding requirements. An explanation has been sought on the issue, since it is unclear why the Site would not receive funding for the purpose it is being designed for. However, no response to date has been received.
- 2.6 Regulation 122 of the Community Infrastructure Level Regulations 2010 sets out that a Planning Obligation may only constitute a reason for granting Planning Permission for development if the Obligation is necessary to make the development acceptable in planning terms.
- 2.7 In this case, the scheme does not constitute a major development and so there is no planning policy requirement for the dwellings to be provided as affordable dwellings for rent. The S106 Agreement would therefore fail on grounds of necessity. Had the Planning Application been submitted on the basis that the proposed dwellings were open market dwellings, Officers would still recommend it for approval, as it is considered to comply with relevant National and Local planning policies.
- 2.8 Officers recommend that the Planning Application is approved, with Conditions, but with no requirement for the applicant to enter into a S106 Agreement to secure the dwellings as affordable dwellings for rent.

3 Site description

- 3.1 Not relevant for this application

4 Proposal

- 4.1 This proposal seeks to remove the requirement of the applicant entering into a S106 Agreement to secure the dwellings as affordable dwellings for rent.

5 Comments from third parties

- 5.1 Not relevant for this application

6 Consultations

6.1 Not relevant for this application

7 Relevant planning history

Application number	Decision date	Application detail	Decision
14/00167/FUL	Appeal Allowed 08.01.2015	Demolition of existing garages 1-9, erection of 1 no. 3 bed 5 person and 1 no. 2 bed 4 person dwellings with associated parking, replacement parking and hard and soft landscaping.(Amended drawings received 01.07.2014)	Appeal Allowed

8 Planning Policy

National Policy Planning Framework (NPPF) 2019

Chapter 5

Delivering a sufficient supply of homes

Core Strategy 2007

Policy CS9

Affordable Housing and meeting Housing Needs

9 Update Report

9.1 A Planning Application relating to the Site was taken to Planning Committee on 25 July 2019, with an Officers recommendation for approval. The formal description of development is as follows:

“Erection of three no. two-bedroom dwellings”

9.2 The Planning Application was required to be taken to Planning Committee as Epsom and Ewell Borough Council is a landowner. The application was also subject to a call-in request from a Councillor, but irrespective of this, the application would still have been determined at Planning Committee.

9.3 The Committee Report and Update Report, both dated 25 July 2019 are attached at Annex 1 and 2. The Committee Report provides the planning assessment undertaken by Officers. It confirms that the principle of development at the Site is considered acceptable, the proposed dwellings are of an appropriate scale and design, the car parking provision exceeds local policy requirements and the proposal is not considered to cause additional parking pressures in the local area. The proposal is therefore considered to comply with relevant National and Local planning policies.

- 9.4 The Planning Committee resolved to approve Planning Permission, subject to a S106 Agreement being completed and signed by 25 October 2019, to secure the dwellings as affordable dwellings for rent. The minutes of the Planning Committee can be found at Annex 3.
- 9.5 The Planning Application is currently pending determination. Officers received a letter from the planning agents at Dowsett Mayhew Planning Partnership, dated 30 September 2019. The letter is attached at Annex 4. It sets out that whilst the Planning Application was submitted on the basis of the dwellings being provided as affordable dwellings for rent, signing a S106 Agreement may prevent the applicant from securing grant funding from Homes England for the project, which will jeopardise its delivery.
- 9.6 The letter further sets out that the applicant is a committed Housing Association, wanting to deliver as many affordable homes as possible. The only way to do this is by maximising the value of its housing stock, in order to secure grant funding. Classifying the dwellings within this application as affordable units reduces their value and as a result, the amount of grant funding the Housing Association would be able to secure for the project. Therefore, the signing of a S106 Agreement could restrict the delivery of this scheme.
- 9.7 Regulation 122 of the Community Infrastructure Level Regulations 2010 states that a Planning Obligation may only constitute a reason for granting Planning Permission for development if the Obligation is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 9.8 Whilst the documentation supporting the Planning Application set out that the dwellings would be delivered as affordable dwellings for rent, the description of development does not reference this.
- 9.9 Chapter 5 of the NPPF (2019) relates to the delivery of a sufficient supply of homes. Paragraph 63 sets out that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). Policy CS9 (Affordable Housing and Meeting Housing Needs) of the Core Strategy (2007) sets out that residential developments of between five and fourteen dwellings gross (or on sites between 0.15ha and 0.49ha – irrespective of the number of dwellings proposed should include at least 20% of dwellings as affordable. Residential development of 15 or more dwellings gross (or on sites of 0.5ha or above) should include at least 40% of dwellings as affordable.

- 9.10 The Planning Application does not constitute a major development and so there is no planning policy requirement for the dwellings to be delivered as affordable dwellings. The S106 Agreement requirement would therefore fail on grounds of necessity. Indeed, had the Planning Application been submitted on the basis that the proposed dwellings were anticipated to be open market dwellings, Officers would still recommend it for approval, as it is considered to comply with relevant National and Local planning policies.
- 9.11 In light of the above, Officers recommend that the Planning Application is approved, with Conditions, but with no requirement to enter into a S106 Agreement to secure the dwellings as affordable dwellings for rent.

10 Conclusion

- 10.1 Officers confirm that the proposal accords with the Development Plan. It is recommended that the Planning Application is approved, subject to Conditions, but with no requirement to enter into a S106 Agreement to secure the dwellings as affordable dwellings for rent.

11 Recommendation

- 11.1 Approve, subject to Conditions only.

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.**