

22-24 Dorking Road Epsom Surrey KT18 7LX

Ward:	Woodcote Ward
Site:	22-24 Dorking Road Epsom Surrey KT18 7LX
Application for:	Demolition of existing houses and erection of a part two, part three storey building with rooms in the roof and basement providing 20 flats. Basement parking for cars and cycles. Bins stores and associated hard and soft landscaping including new boundary walls and railings. (Amended scheme received 6 May 2020)
Contact Officer:	John Robinson

1 Plans

- 1.1 The Council now holds this information electronically. Please click on the following link to access the plans relating to this application via the Council's website, which is provided by way of background information to the report. Please note that the link is current at the time of publication and will not be updated.

Link: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PZQCF3GYGB500>

2 Background

- 2.1 This application was determined by committee on 03.09.2020, against the advice of officers, and planning permission was refused. That decision is subject to appeal. In preparing the appeal statement on behalf of the Council, officers need to add an additional ground of refusal.

3 Planning considerations

- 3.1 The committee report (Appendix 1) at paragraphs 10.9 to 10.23 deals with heritage impacts and concluded that the development would result in less than substantial harm to the to the significance of designated heritage assets nearby the application site. In weighing up the material planning considerations the conclusion of officers was that the public benefits of the scheme outweighed this harm.

- 3.2 It is axiomatic that in the context of a refusal of planning permission, the weighing of the material planning considerations need to be re-examined. In this context, in accordance with paragraph 193 of the NPPF, the Council and the Inspector are required to:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance

- 3.3 Furthermore, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places the following legal duty on those exercising planning functions (which includes a Planning Inspector who acts on behalf of the Secretary of State):

In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 3.4 It is important therefore that the legal duty placed on the council and the decision maker (ie the Inspector on behalf of the SoS) and the requirements of the NPPF (which flow from the statutory duty) to give the harm to the significance of the heritage assets great weight in the planning balance is properly discharged. In the light of these considerations, officers consider that an additional ground is needed as in the context of a refusal of planning permission the harm to the significance of the heritage assets is no longer considered to be outweighed by the benefits of the development.

- 3.5 With respect to the risk of costs from adding an additional ground, costs are awarded both on the basis of unreasonable behaviour and that behaviour resulting in additional and unnecessary costs being incurred. Two factors should reduce this:

1. The ground is added as early as possible in the process – the appeal has not at the time of drafting this report, been validated by the Planning Inspectorate.

2. Whilst the ground may be seen as a new element in the Council's case, it is not a new element in the case for the Inspector. He/she is bound by the statutory duty in s66 of the 1990 Act and is bound by law to fully consider these matters in any event. The appellant should similarly do so. By introducing this ground no additional or unnecessary resources need to be deployed by any party and therefore there should be no basis upon which to award costs, even if unreasonable behaviour is found against the Council.

4 Recommendation

- 4.1 That the amendment to the decision on this application be agreed and a new ground of refusal be added as follows:

3. **The proposed development by reason of its impact on the settings of nearby heritage assets, particularly those opposite the site including the grade II* Hylands, results in harm to the significance of those designated heritage assets which is not considered to be outweighed by the public benefits of the scheme. The proposal is contrary to paragraphs 193 and 196 of the NPPF, policy CS5 of the Core Strategy 2007 and policy DM8 of the Development Management Policies Document 2015.**