

Planning Committee  
22 April 2021  
Monthly Appeals Report

<b>Ward</b>	<b>(All Wards)</b>
<b>Contact officer</b>	<b>Mehdi Rezaie</b>

Report by Mehdi Rezaie, Planning Development Manager/Viv Evans Head of Planning.

The Planning Service has received the following Appeal decisions from 18<sup>th</sup> December 2020 to 8<sup>th</sup> April 2021.

<b>Site Address</b>	<b>Planning Reference</b>	<b>Description of Development</b>	<b>Decision and Costs</b>
56 Sunnybank, Epsom KT18 7DX	Appeal Ref: APP/P3610/D/20/3257336  LPA Ref: 20/00670/FLH	Part two storey, part single storey side and rear wraparound extension with single storey front extension and formation of porch extension and internal alterations.	Dismissed 30.12.20
6 The Grove, Epsom, Surrey KT17 4DQ	Appeal Ref: APP/P3610/W/20/325687 0  LPA Ref: 20/00313/FUL	Erection of 7 x two bedrooms flats and 2 x three bedrooms flats and associated external works following demolition of the existing building.	Dismissed 30.12.20
259 Kingston Road, Ewell KT19 0BN	Appeal Ref: APP/P3610/D/20/3251369  LPA Ref: 20/00109/FLH	Rebuilding of part of the garage, a ground floor rear extension, a side extension and a loft conversion.	Dismissed 06.01.2021
24 Rowden Road, West Ewell KT19 9PN	Appeal Ref: APP/P3610/D/20/3250560  LPA Ref: 19/01702/FLH	Hip to gable loft conversion including the installation of three roof windows into the pitched roof of the front elevation and the addition of a rear dormer.	Dismissed 18.01.21
Miles End, Wilmerhatch Lane, Epsom KT18 7EH	Appeal Ref: APP/P3610/Y/20/3260363  LPA Ref: 20/00146/LBA	Attach 5 lights to the buttresses of the listed wall.	Allowed 08.02.21
39 Kingston Road, Ewell KT17 2EG	Appeal Ref: APP/P3610/Y/20/3258294  LPA Ref: 20/00278/LBA	Full replacement of all wooden cladding with treated wood and painted white.	Dismissed 08.02.21
15 Cotherstone, Epsom KT19 9EF	Appeal Ref: APP/P3610/W/20/325740 3  LPA Ref: 19/01576/COU	Change of use from C3 (Dwellinghouse) to Sui Generis – large house in multiple occupation.	Allowed 10.02.21  Costs pending

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36 Hamilton Close, Epsom KT19 8RG	Appeal Ref: APP/P3610/D/20/3259347  LPA Ref: 20/00875/FLH	Revised application in full for a single storey side extension, single storey rear extension, raising of the main roof ridge incorporating rear roof dormer extension and installation of two rooflights to front roof slope".	Dismissed 15.02.21
430 Chessington Road, West Ewell KT19 9EJ	Appeal Ref: APP/P3610/D/20/3265692  LPA Ref: 20/01311/FLH	Loft conversion with front and rear dormer and front porch extension	Dismissed 24.02.21
Land at 56 Amis Avenue, West Ewell, Surrey KT19 9HU	Appeal Ref: APP/P3610/C/20/3262630  LPA Ref: 20/00019/COU	The breach of planning control as alleged in the notice is the use of the land for purpose of carrying on a garden waste, landscaping and house clearance business.	Dismissed and Enforcement Notice upheld. 19.03.21
Victoria House, 1 Victoria Place, Epsom KT17 1BX	Appeal Ref: APP/P3610/W/20/325240 2  LPA Ref: 20/00241/FUL	Extension of existing two-storey building to three storeys with accommodation in the roof to provide 2 studio units and 1 two-bedroom flat.	Dismissed 22.03.21
143 Manor Green Road, Epsom KT19 8L	Appeal Ref: APP/P3610/D/20/3252752  LPA Ref: 20/00069/FLH	Single storey front extension with mono-pitch roof formation into a flat roof section which connects into the existing roof. Proposed double storey front and side extension. Minor internal and external alterations.	Dismissed 23.03.21
42 The Avenue, Worcester Park KT4 7EY	Appeal Ref: APP/P3610/W/20/326181 5  LPA Ref: 20/00572/FUL	Demolition of the existing dwelling house and redevelopment to construct a three storey, six-unit apartment building and eight off- street parking spaces, with associated amenity space, cycle and refuse storage.	Dismissed 23.03.21
Muralis, Hylands Mews, Epsom KT18 7JX	Appeal Ref: APP/P3610/D/20/3250563  LPA Ref: 19/01249/FLH	Single storey standalone garage to land in front of existing house.	Dismissed 24.03.21

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### Summary of Appeal Decisions:

#### **56 Sunnybank, Epsom KT18 7DX**

The main issues were the effect of the proposal on the living conditions of the occupants of 54 Sunnybank, with reference to outlook, daylight and sunlight; and the effect on the character and appearance of the area.

The inspectorate recognised that the two-storey part of the proposed extension would be constructed at the side of the property closest to 54 Sunnybank and that the extension would be angled away from the neighbour and this would provide some mitigation by ensuring that the building is set off the boundary.

The inspectorate noted and factored in the case put by appellant so far as No 54 having had a similar extension to that being proposed which in comparison to the development the appeal scheme would have a lesser impact on the living conditions of the neighbours due to the angle between the properties.

On the topic of character and appearance, more notably on the issue of closing the gap between the appeal property and No 54, the inspectorate concluded that the proposal would not cause material harm to the character and appearance of the area as there were numerous examples of extensions leaving a similar distance to the neighbouring property within Sunnybank.

The inspectorate concluded that the submitted plans do not show the relationship of the proposed extension to No 54 and there is no evidence in the form of a daylight and sunlight study to inform a decision on whether the impact is likely to be within acceptable limits. In the absence of this information it was considered impossible to make a reliable judgement on the acceptability of the scheme and therefore concluded that there is conflict with the requirement of Policy DM10 of the Development Management Policies Document (2015) (DMPD), and therefore the appeal fails.

#### **6 The Grove, Epsom, Surrey KT17 4DQ**

The main issues were non-determination, and whether the proposal would preserve or enhance the character or appearance of the Church Street Conservation Area; the effect on the living conditions of the occupants of 7 The Grove, with particular reference to outlook and privacy; whether the scheme would provide adequate living conditions for future occupants, with regard to the internal accommodation and compliance with the Nationally Described Space Standard; and whether the scheme would make appropriate provision for car parking.

The inspectorate recognised that the property occupies a spacious plot fronting the turning circle, within the conservation area but adjacent the flatted blocks of Badger Court and Badger Lodge which fall outside of the designation.

The inspectorate noted and factored in the case put by appellant so far as them referencing development forms outside of the conservation area, here the inspectorate emphasised that this manner is not an appropriate means of securing a development which protects the significance of the heritage asset. The appellant also put forth a case surrounding the location of the site within the urban area, density considerations and the policy imperative to make efficient use of land.

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The inspectorate expressed that there have been some attempts to articulate the bulk of the building and present a traditional façade onto the street, however, the overall building composition, with its multitude of dormers and complex roof forms, would be fussy and contrived. Its cumulative height and mass would have more in common with the adjoining blocks of flats both negative components in the setting of the conservation area than the domestic scale housing which characterises this part of the conservation area.

On the topic of living condition, the inspectorate concluded that the excessive scale of the appeal scheme would have an unacceptable adverse impact on the outlook of occupants of 7 The Grove, contrary to the requirement of DMPD Policy DM10 that development proposals should have regard to the amenities of neighbours.

On the topic of quality of internal accommodation, the inspectorate concluded that based on the plans before him, the NDSS technical requirements would not be met, and that the scheme conflicts with DMPD Policy DM12 in respect of bedroom sizes.

On the topic of parking, the inspectorate concluded that he was content that the level of parking provision should not weigh against the scheme.

The inspectorate concluded that the proposal failed to protect heritage assets and secure high-quality design which respects local character and makes adequate provision for new landscaping and thus failed to preserve or enhance the character or appearance of the Church Street Conservation Area, contrary to Policy CS5 of the Core Strategy (2007) and Policies DM5, DM8, DM9 and DM10 of the Development Management Policies Document (2015) (DMPD), and therefore the appeal fails.

## **259 Kingston Road, Ewell KT19 0BN**

The main issues were the effect of the proposed development on the character and appearance of the host property, the semi-detached pair and the area.

The inspectorate recognised that Kingston Road is a long highway with a range of property types. The dwellings along this side of it close to the appeal site are predominantly arranged as two storey semi-detached pairs. The inspectorate acknowledged that many dwellings have been altered, however, their front faces typically share features such as prominent two storey projections, and a principally hipped roof form. This, together with their fairly even spacing, and their set back from the road, provides a rhythm and a sense of harmony to the streetscene.

The inspectorate noted and factored in the case put by appellant so far as offering security improvements, including the installation of lighting, security locks, CCTV; and sustainability benefits such as triple glazing and an energy efficient boiler, and concluded that this scheme is not the only way in which those could be achieved and the benefit of providing a fully adaptable space suitable for later years living would not justify allowing this harmful development.

The inspectorate concluded that the proposal's hip to gable extension would be markedly at odds with the fairly consistent and locally distinctive roof form of the semi-detached properties along this stretch of the streetscene. Further noting that it would also unbalance this semi-detached pair and would significantly harm the character and appearance of the host property, conflicting with Policy DM10 of the Epsom and Ewell Development Management Policies Document 2015 and Policy CS 5 of the Epsom and Ewell Core Strategy 2007, and therefore the appeal fails.

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**24 Rowden Road, West Ewell KT19 9PN**

The main issues were the effect of the proposal on the character and appearance of the area.

The inspectorate recognised that the design of the terrace was characterised by the steep hipped roofs to the houses either end of the terrace and to alter this in the manner proposed would seriously harm the appearance of the house, the symmetry of the terrace and would be of such significance to appear at odds in the street scene.

The inspectorate noted and factored in the case put by appellant and his family for need for additional accommodation but concluded that he could not justify allowing a proposal that would have such an impact on the character and appearance of the area and that would conflict with policies DM9 and DM10 and the advice in the SPG, and therefore the appeal fails.

## **Miles End, Wilmerhatch Lane, Epsom KT18 7EH**

The main issues were whether the retrospective works have preserved a Grade II listed building, its setting, or any of the features of special architectural or historic interest that it possesses.

The inspectorate recognises that insofar as it is relevant to this appeal, the special interest and significance of the listed building resides in its late eighteenth-century original date, its historic fabric and construction, its historic functional role, and its relationship with Woodcote Park House.

The inspectorate summarises that the security lamp is clearly visible from within the rear garden of the dwelling, but the uplighters cannot be seen unless close up. In both regards, and in the inspectorates view of the above findings, it was considered that the lights have no effect on perception of the special interest and significance of the listed building as a whole and that the presence of the lights does not therefore harm the special interest or significance of the listed building.

The inspectorate further summarises that lights have been fixed into the mortar joints of the wall rather than into the historic brickwork, and whilst this would necessarily have involved drilling a small number of holes, this is unlikely to have caused any harm to the historic fabric of the wall because the wall has recently been repointed. emphasis was given that damage caused by the holes is both otherwise, and for this reason, purely superficial in nature.

The inspectorate concludes that the listed building has been preserved and that the scheme therefore accords with the expectations of the Act, and with the National Planning Policy Framework, which sets out the great weight to be attached to the conservation of designated heritage assets, and the appeal should be allowed.

## **39 Kingston Road, Ewell KT17 2EG**

The main issues were whether the proposed works would preserve a Grade II listed building, its setting, or any of the features of special architectural or historic interest that it possesses.

The inspectorate recognised that 39 Kingston Road forms one of a pair of semi-detached dwellings, 37 and 39 Kingston Road, which constitutes the listed building in this case and that the special interest and significance of the listed building resides in its early/mid-nineteenth century date, modest proportions and symmetry, and the distinctive weatherboard finish of the frontage.

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The inspectorate noted and factored in the case put by appellant so far as the boarding dates to the 1970s, however, no supporting evidence or assessment has been set before him and so the extent to which the works would result in the loss of any historic fabric is unclear. The appellant also emphasised that the proposal would improve the security, energy efficiency and fire safety of the dwelling, however, the inspectorate stated that improved security would itself be a private benefit and therefore he attaches little weight to these considerations.

The inspectorate concluded that the harm likely to be caused to the significance of the listed building would not be outweighed by public benefits, and the potential thus exists for the works to harm the special interest and significance of the listed building. This would be contrary to the expectations of the Act, and paragraphs 193 and 194 of the National Planning Policy Framework (the Framework), which both state that great weight should be given to the conservation of heritage assets, and that any harm requires clear and convincing justification, and therefore the appeal fails.

### **15 Cotherstone, Epsom KT19 9EF**

The main issues were whether the retrospective occupiers of this property experience appropriate living conditions, with particular regard to bedroom sizes and the availability of outdoor amenity space.

The inspectorate recognised that the Council stated that it is unclear whether these are single or double bedrooms, nevertheless, the inspectorate accentuates that this information could have been requested at application stage, and it also notes that the application was retrospective and that the bedrooms are of an appropriate size for the occupants.

The inspectorate noted and factored in the case put by appellant so far as private amenity areas measuring approximately 50sqm and therefore development provides appropriate living conditions for its occupants.

The inspectorate concluded that the appellant grounds of appeal did not conflict with EEDMP Policy DM10 as that criteria was set aside for new development and not existing, the appeal was therefore allowed.

An application for costs has been made by the appellant against Epsom and Ewell Borough Council, this application will be the subject of a separate decision which at present is pending.

### **36 Hamilton Close, Epsom KT19 8RG**

The main issues were the effect of the proposal on the character and appearance of the host property and the surrounding area.

The inspectorate recognised that the appeal site contains a two-storey detached dwelling set-back from the road by a small front garden. No 36 Hamilton Close ('No 36') is an attractive property with a front gable that emanates from its sloping roof and that Hamilton Close predominantly consists of detached and semi-detached dwellings, and there is a notable degree of diversity in terms of their designs and materials used.

The inspectorate noted that there would be some overall reduction in the scale of the roof, the new front façade created by the proposal would appear overly bulky on this attractive property, significantly altering its appearance. Moreover, whilst gable features are a characteristic of the area, the one proposed and the window arrangement below would not reflect those within

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nearby properties and it would appear contrived and would not harmonise adequately with the host property. The combined bulk and massing of these elements of the proposal would dominate the host property, destroying its legible and modest appearance.

The inspectorate noted and factored in the case put by appellant so far as the proposal following a previous application and dialogue with the Council, and that no objections relating to this appeal have been received from neighbours and that proposal would improve the living accommodation available to the appellants. Notwithstanding this the inspectorate commented that these are neutral matters which do not weigh in favour of the proposal, and the living improvements are private benefit which have been given limited weight.

The inspectorate concluded that the proposal would have an unacceptable and harmful effect on the character and appearance of the host property and the surrounding area. The proposal would conflict with Policies CS1 and CS5 of the Core Strategy (adopted 2007), and Policies DM9 and DM10 of the Development Management Policies Document (adopted 2015), and therefore the appeal fails.

## **430 Chessington Road, West Ewell KT19 9EJ**

The main issues were the effect of the proposed development on the character and appearance of the existing building and the surrounding area.

The inspectorate recognised the appeal property as being a one half of a semi-detached pair of c1930's houses, of hipped roof form and a semi-circular two storey bay to the front topped with a small gable feature that projects into the roof slope. The adjoining half is similar but has a lighter coloured upper floor finish. The pair provide a symmetrical form and shape to the street. The wider street is however interspersed with a variety of property styles and designs including bungalows, modern semi-detached houses and a small flat block.

The inspectorate noted and factored in the case put by appellant so far as there being a number of properties where dormer features have been added to the properties to contend that they are a common feature and as such not detrimental to the character of the area. The inspectorate expressed that each scheme needs to be considered on its own merits and the proposed design, form, and alteration to the roof profile and dormer and the immediate context into which it would be inserted are such that the proposal would result in material harm.

The inspectorate concluded that the proposed development would conflict with the development plan and as developments should be determined in accordance with the development plan unless material considerations would indicate a decision otherwise was appropriate, and no such considerations do so, the proposal should be refused, therefore the appeal fails.

## **Land at 56 Amis Avenue, West Ewell, Surrey KT19 9HU**

The main issues were ceasing the use of the front garden and driveway areas of the land for the storage of household clearance, landscaping and garden waste; and ceasing the use of the front driveway of the land for the parking or storage of the pickup truck used in connection with the household clearance landscaping and garden waste business; and remove all skips and all items being stored on the driveway and front garden area of the land in connection with a house clearance, landscaping or garden waste business.

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The inspectorate recognised that the evidence before him indicated that significant quantities of waste including building materials and furniture have been present in the front garden over a period of time in 2019 and 2020, in the skip and elsewhere in the front garden.

The inspectorate noted and factored in the case put by appellant so far as the stationing of a skip in the front garden was purely for domestic use, during the refurbishment of his house and garden, and that it was not used in relation to his business.

The inspectorate concluded that the appellant has not provided any substantive evidence to demonstrate that the skip, the waste and materials stored have been solely in association with the residential use of the property and the refurbishment works to the house and garden. The very limited evidence put forward in support of the contention that the breach has not occurred falls well short of discharging the burden of proof and that on the balance of probability, that the commercial use has taken place.

The inspectorate had directed that the enforcement notice is corrected by deletion of the words 'use of the land' and substitution of the words 'mixed use of the land for residential purposes and' in the allegation; and deletion of the words 'for the storage of household clearance, landscaping and garden waste' and substitution of the words 'in connection with the household clearance, landscaping and garden waste business' in requirement 1. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

## **Victoria House, 1 Victoria Place, Epsom KT17 1BX**

The main issues were the character and appearance of the area including its effect on the setting of the Lintons Lane Conservation Area; the living conditions of future occupiers of the studio apartments; and parking in the area.

The inspectorate recognised that the appeal site is a detached two storey building within the Epsom Town Centre with a busy main road, East Street (A24), close by and also just outside the Lintons Lane Conservation Area where there are Listed Buildings close by i.e. Nos 1 & 3 and 10 & 12 Lintons Lane.

On the topic of living condition, the inspectorate concluded that this issue is very marginal and therefore the proposal would not conflict with Policy DM 10. On the topic of parking, the inspectorate concluded that the location of the appeal site within the Town Centre and the minor shortfall would not result in on-street parking to such a degree as to justify refusing this development and therefore the proposal would not conflict with policies CS16 and DM 37.

The inspectorate noted and factored in the case put by appellant so far as the Council having a shortfall of land for housing, however, concluded that the nearby heritage assets should be afforded substantial weight which, given that this proposal is only for three units of living accommodation, is not outweighed by the housing requirements within the Borough.

The inspectorate concluded that the additional two stories of accommodation proposed would make the building much more prominent and that the additional height would jar against the two storey properties opposite as well as the domestic scale of the Listed Buildings. The inspectorate did not believe the proposal would make a positive contribution to the Borough's visual character and appearance or be compatible with local character, the surrounding historic environment and the setting of the proposal site as required by Policy DM9. or consistent with the design criteria set out in Policy DM 10 in terms of its contribution to the character and local distinctiveness of the area and that It would further conflict with policies CS5 and DM8, and therefore the appeal fails.



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**143 Manor Green Road, Epsom KT19 8L**

The main issues were the effect of the proposal on the character and appearance of the existing dwelling and its setting in the wider area.

The inspectorate recognised that the appeal site relates to a detached two-storey dwelling which is considered by the Council to be of distinctive architectural and historical significance with Arts and Craft influences, similar to houses designed by Edwin Lutyens. Not listed or within a Conservation Area although agrees with the Council that the dwelling does have architectural and historic merit.

The inspectorate noted and factored in the case put by appellant so far as the house not having the more stringent protection of being listed or being in a Conservation Area, however, expressed that the proposal only succeeds in adding a large, incongruous and dominant feature to the front of the dwelling that would overwhelm the original character of the house.

The inspectorate concluded that the proposal would have a harmful effect on the character and appearance of the dwelling and its setting within the area, contrary to aims of Core Strategy Policy CS5 or with the principles set out in policies DM9 and DM10, and therefore the appeal fails.

## **42 The Avenue, Worcester Park KT4 7EY**

The main issues were the effect of the proposed development on the character and appearance of the area; The effect of the proposed development on existing limetrees; the effect of the proposed development on the living conditions of the neighbouring occupiers at 40a The Avenue, having particular regard to overlooking and privacy; and whether satisfactory living conditions would be created.

The inspectorate recognised that the existing property is not listed and the site does not fall within a conservation area. Furthermore, the proposal would host space to the front and rear of the plot.

The inspectorate noted and factored in the case put by appellant so far as the Council not being able to demonstrate a 5-year supply of land for the delivery of housing. The inspectorate emphasised that even if the housing supply shortfall were significant, this needs to be set against the harm arising from the proposed development. The adverse impacts of the development to the character and appearance of the area, trees and the living conditions of existing and future occupiers attract significant weight and outweigh the benefits associated with the proposed development.

On the topic of the limetree, the inspectorate concluded that the premature loss of either of these trees would have a negative and significantly visual effect upon the street scene.

On the topic of the privacy intrusion, the inspectorate concluded that the proposal would conflict with Policy DM10 of the Policies Document as the development fails to safeguard residential amenities in regard of overlooking and privacy.

The inspectorate concluded that the apartment development would be substantially larger than the development that it would replace and that it would be positioned closer to the Avenue and Suffolk Road, as well as the side boundaries of the site. The limited separation to the Suffolk Road side boundary would make the development appear particularly constrained within its plot, as a result, the appearance of the development would be one of an overly large development squeezed onto the site. For this reason, the development would be visually

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harmful, especially given its corner siting and the openness of the site to public views from the adjoining highways, the visual harm arising from the proposed development would be readily apparent, therefore the appeal fails.

### **Muralis, Hylands Mews, Epsom KT18 7JX**

The main issues were the effect of the garage on a protected yew tree.

The inspectorate recognised that the existing tarmac driveway is close to the tree and although the proposal could enlarge the area immediately around the tree to soft landscaping, the proposed garage would still be sited very close to the tree.

The inspectorate noted and factored in the case put by appellant and their arboricultural assessment to address the future of the tree, however, remained unconvinced that the proposed garage would not have an adverse effect on the tree and there was no justification in allowing the development which could compromise its future, and therefore the appeal fails.