

Planning Committee:  
10 March 2022

Planning Application  
Number: 21/01708/FUL

<b>Ward:</b>	<b>Town Ward;</b>
<b>Site:</b>	<b>107-111 East Street, Epsom, Surrey, KT17 1EJ</b>
<b>Application for:</b>	<b>Demolition of the existing buildings and erection of part 3 storey, part 4 storey building comprising 21 residential flats with associated car and cycle parking and refuse storage</b>
<b>Contact Officer:</b>	<b>Euan Cheyne</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: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R1KUEZGYLZN00>

## 2 Additional Representations

- 2.1 One additional representation has been received in respect of the application, supporting it on the grounds that it would be a promising development that would enhance the locale.

## 3 Additional Information

- 3.1 The application was deferred from the February meeting of the Planning Committee to allow Officers to obtain clarity on the ownership of the access road as well as the legal status of rights of way.
- 3.2 It has been ascertained from Office Copy Title Number SY336809 (Figure 1) and by the Head of Property & Regeneration that the existing access is owned by Epsom & Ewell Borough Council. The existing access road would be widened from 4.2 metres to 5 metres and the provision of a 1.5 to 3 metre wide footpath is proposed along the access road (Figure 2). These areas are both on land which is owned by the applicant and also ascertained from Office Copy Title Numbers SY539679, SY480192 and SY217900 (Figure 3).

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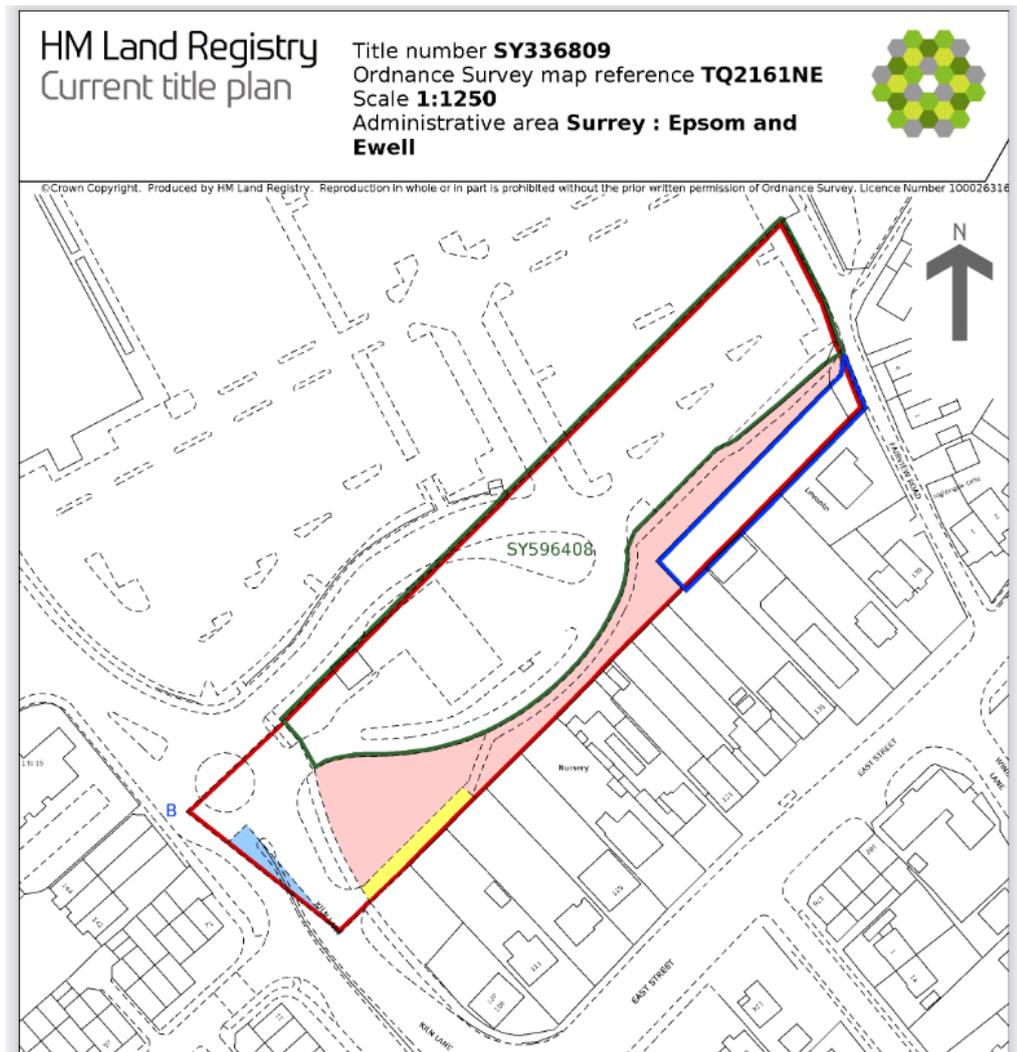


Figure 1 (above)

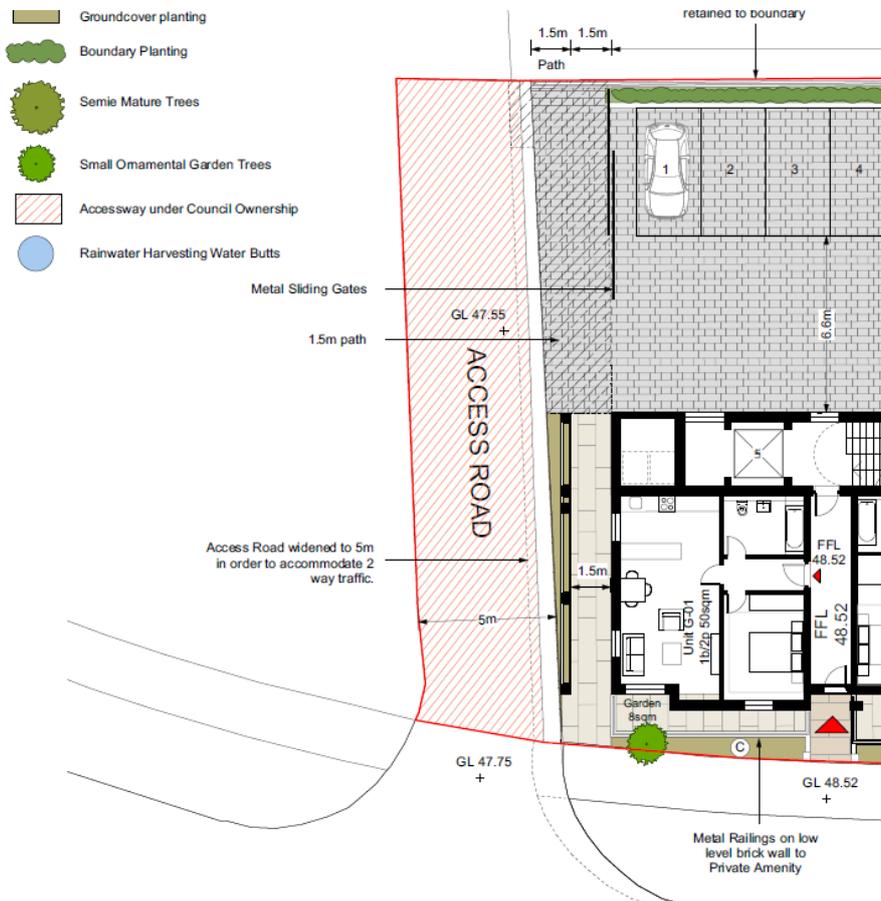


Figure 2 (above)



Figure 3 (above)

- 3.3 Although it is not material to the determination of this application, there is a restrictive covenant over the area of land owned by the Council, which restricts access to a single dwelling. However, permission in principle was granted on 30<sup>th</sup> March 2021 at the Strategy and Resources Committee to release the restrictive covenant over the Council's access land. Accordingly, the development could be accessed if planning permission were granted, subject to the applicant agreeing terms. In relation to the area of land owned by the applicant, it is proposed to amend the Heads of Terms of the Legal Agreement under the planning application to include the provision and retention of access for the benefit of the Council over these parts of the application site. Pedestrians would therefore enjoy the same level of access as the existing area of land owned by the Council were planning permission granted.
- 3.4 As owner of the existing access and verge to the north west, the Council is responsible for its maintenance and issues involving access being blocked through parking etc. Were access restricted on the applicant's land, then the Legal Agreement, which requires access to be provided and maintained, could be enforced by the Council.
- 3.5 The Council's Solicitor has considered the ownership of the access road as well as the legal status of rights of way and confirms that, subject to the Legal Agreement, adequate access is provided and that is sufficient in terms of planning considerations. Any matter beyond that, including any restrictive covenant, is a matter for the application to be addressed outside of this planning application.

#### **4 Conclusion**

- 4.1 This additional report addresses issues relating to the deferral. The February Committee Report is appended to this report, and sets out the main planning considerations.
- 4.2 In conclusion, Paragraph 11(d)(ii) of the NPPF (2021) states that for decision-making the Council should approve planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 4.3 The Council are unable to demonstrate a 5 year supply of land for the delivery of housing. As such, the presumption in favour of sustainable development and Paragraph 11(d) of the NPPF (2021) is a material planning consideration.

- 4.4 The provision of 21 residential units (a net gain of 18 units) each with private amenity space would provide a significant public benefit, which weighs in favour of the scheme. Paragraph 60 of the NPPF (2021) 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. The provision of additional housing comprises a substantial social benefit.
- 4.5 The provision of affordable housing in developments is afforded significant weight in the planning balance. The lack of policy compliant affordable housing provision, is given minor negative weight in the planning balance. The applicant has undertaken a viability appraisal which concludes that the scheme cannot viably contribute towards affordable housing, therefore minor negative weight is given as opposed to positive weight.
- 4.6 The housing mix is not fully compliant and therefore given minor negative weight.
- 4.7 The shortfall in on-site car parking spaces is given minor negative weight, by reason that the applicant has justified the shortfall and that the site is located within a sustainable location with good public transport accessibility. Increasing on-site parking provision would not optimise the residential use of the site, an important objective in view of housing need.
- 4.8 In addition, other benefits must be identified, these being economic from the construction project and CIL.
- 4.9 Taking all these matters into account, including all other material planning considerations, it is found that the benefits would significantly and demonstrably outweigh the negative impacts when assessed against the policies of the NPPF as a whole. The proposal would represent sustainable development.

## 5 Recommendation

### 5.1

#### PART A

Subject to a Section 106 Legal Agreement being completed and signed by 10<sup>th</sup> May 2022 to secure the following Heads of Terms:

- review mechanism which is triggered if works on-site have not reached construction of the first-floor slab within 2 years of planning permission being granted;

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- monitoring fee (drafting of S106 Legal Agreement) of £1,200
- provision and maintenance of access in accordance with the approved plans

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

## 5.2

### PART B

In the event that the Section 106 Legal Agreement referred to in Part A is not completed by 13<sup>th</sup> April 2022, the Head of Place is 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 CS9 (Affordable Housing) of the LDF Core Strategy (2007) in relation to the review mechanism associated with the provision of affordable housing.

## 6 Conditions

6.1 Please refer to the February Committee Report/Appendix 1.