

<b>Ward:</b>	<b>Ruxley</b>
<b>Site:</b>	<b>140 - 142 Ruxley Lane West Ewell Surrey KT19 9JS</b>
<b>Application for:</b>	<b>Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping</b>
<b>Contact Officer:</b>	<b>Gemma Paterson</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.
- 1.2 Link: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QYCN4GGYLJ300>

## **2 Background**

- 2.1 Members may recall that a similar application was first heard at the November 2020 Planning Committee (20/00288/FUL - demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping) where it was refused for the following reason:
- ‘The proposed development by reason of its design, scale, and massing, gives rise to an unacceptably cramped and over-developed layout, leading to an overbearing relationship with the adjacent properties and the local street scene, contrary to the established character, and local distinctiveness of the local area. The proposal is contrary to para 127 (c) of the NPPF, Policy DM9 and DM10 of the Development Management Policies Document 2015 and CS5 of the Core Strategy 2007’.
- 2.2 The Planning Inspector dismissed the subsequent appeal, upholding Members concerns regarding scale, overdevelopment, and overbearing relationship with the adjacent buildings.

- 2.3 The application before Members seeks to address the concerns raised by Members and the Planning Inspectorate against the previously application.
- 2.4 Officers are recommending refusal of the application. Although the Officers recommendation on the previous scheme was to grant, there are material differences to this current scheme in terms of scale, massing and design. Furthermore, the Inspectors decision is an important material consideration in the assessment of this application.
- 2.5 The application was due to be determined by Members at the March 2022 Planning Committee. However, the applicant has since appealed this application on the basis of non-determination. Members are therefore not determining this planning application but considering whether they would have refused the proposal (for the reasons set out below or other reasons) or if they would have approved the proposal. Officers will then inform the Planning inspectorate of the decision the Council would have made if the applicant had not appealed.

### **3 Summary**

- 3.1 The application is classified as a major planning application and is referred to Planning Committee in accordance with Epsom and Ewell Borough Council's Scheme of Delegation.
- 3.2 The application seeks planning permission for the demolition of the existing 2 no. two storey dwellings and the construction of construction of 2 no. 2-4 storey residential blocks accommodating 20 residential units.
- 3.3 The site is located within a sustainable location that is in close proximity to public transport, which offers a mode of transport other than the private car. The site is therefore in a suitable location in sustainable transport terms for new residential uses.
- 3.1 The proposal would not be compliant with the Council's Housing Density and Building heights policies. However, in May 2018, the Licensing and Planning Policy Committee took a decision to afford less weight to these policies in the light of the then newly published NPPF, as they were considered to restrict opportunities for growth in the Borough. It should be noted that these polices remain part of the statutory Local Development Framework, and therefore continue to be the starting point for assessing this planning application. They are however, afforded limited weight in the decision-making process and having regard to the current presumption in favour of sustainable development.

- 3.2 Although the proposed development would not be compliant with the Council's Housing Mix policies as a result of an over provision of smaller units, on the basis of the requirement to make effective and efficient use of the site, it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.
- 3.3 It has demonstrated, by way of a Financial Viability Assessment, that the proposed scheme is unable to viably provide a policy compliant provision of 8 affordable units, corresponding to 40% provision of affordable housing. However, the proposed scheme would provide two on-site affordable units as shared ownership, which would be the equivalent of 10% affordable housing, which would meet the expectations of Paragraph 65 of the NPPF (2021).
- 3.4 Notwithstanding this, there is no appropriate mechanism to secure the affordable housing on site.
- 3.5 Although the proposed development would result in an increase in traffic generation, this would not cause harm to highway safety or to the operation of the highway network.
- 3.6 The proposal would accord with the Council's policies in relation to ecology, trees, flood risk, surface flooding and land contamination.
- 3.7 There is a minimal shortfall in meeting the Council's Parking Standards by 0.5 vehicle parking spaces.
- 3.8 As a result of its overall scale and design, the proposed development would represent an overdevelopment of the site and cause significant visual harm to the character and appearance of the area.
- 3.9 The proposed development would not meet the minimum space standards for residential accommodation and would not provide adequate outdoor private amenity space failing to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers.
- 3.10 The proposed development would cause significant harm to the private amenities of the occupiers of surrounding properties by way of off loss of light, loss of outlook and loss of privacy.
- 3.11 The Council currently does not have a 5 year housing land supply. This means that the "presumption in favour of sustainable development" (paragraph 11 of the NPPF) (Also known colloquially as the 'tilted balance') is engaged, and that planning permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the NPPF 2021 as a whole.

- 3.12 Overall, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The application is therefore recommended for refusal

**The application would have been recommended for REFUSAL**

#### **4 Site description**

- 4.1 The application site comprises the curtilage of 2 no. residential dwellings, 140 and 142 Ruxley Lane. The site has a total area of 0.19 hectares.
- 4.2 The existing residential buildings are detached and two-storey in scale, set well back within the plots, providing generous front curtilages facing the highway.
- 4.3 Although the land surrounding the site is predominantly residential, there are a mix of uses within the locale, with a supermarket to the north east of the site and High School located opposite the site, beyond the adjacent highway.

#### **5 Proposal**

- 5.1 The proposed development involves the demolition of the existing two storey residential dwellings and the erection of 2. no block of residential units, ranging between two and a half stories to four stories. One block would front Ruxley Lane, whilst the other would be set to the rear of the site. There would be hard surfacing for vehicle parking, a communal garden area and landscaping inventing between the two blocks.
- 5.2 The block fronting onto Ruxley Lane would measure 23 metres in width, 20 metres in depth and would have an overall height of 11.6 metres. The accommodation would be set out over four floors and would comprise 2 no. one bedroom units, 9 no. two bedroom units and 3 no. three bedroom units.
- 5.3 The block sited to the rear would measure 19 metres in width, 10 metres in depth and would have an overall height of 10.2 metres. The accommodation would be set out over three floors and would comprise 2 no. one bedroom units, 2 no. two bedroom units and 2 no. three bedroom units.
- 5.4 The existing access to the site would be stopped up and a new Bellmouth access would be provided to serve the site. Vehicle parking would be provided to the frontage of Ruxley Lane (8 spaces) and within the centre of the site parking is provided for 14 vehicles.

## **6 Comments from third parties**

6.1 The application was advertised by means of a site notice and letters of notification to 40 neighbouring properties. Eight letters of objection had been received and the issues raised are summarised as follows:

- Noise from additional people and vehicles within the site
- Creation of air pollution
- Overlooking gardens of nearby residential properties
- Loss of light to nearby residential properties
- Traffic increase during school rush hour
- Negative impact on property value
- Loss of vegetation
- Loss of a view/outlook
- Disruption during construction
- Filter lane to the school will prevent traffic from turning right into the new development
- Will set a precedent for overdevelopment in the area
- Out of character with existing area

6.2 The comments material to the planning merits of this proposal are addressed within the contents of this report.

## **7 Consultations**

7.1 **Surrey County Council Highways:** No objections subject to imposition of condition.

7.2 **Lead Local Flood Authority (SuDS):** No objections, subject to imposition of conditions.

7.3 **Surrey County Council Archaeology:** No archaeological concerns

7.4 **Contaminated land Officer:** No objections, subject to imposition of conditions

7.5 **Design and Conservation Officer:** Objection on design grounds

7.6 **Waste Services Manager:** No objection

**8 Relevant planning history**

Application No	Application detail	Decision
20/00288/FUL	Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping	Refused 23/11/2020

**9 Planning Constraints**

Built Up Area  
SSSI Impact Zones

**10 Planning Policy**

National Policy Planning Framework NPPF 2021

Chapter 2 – Achieving Sustainable Development  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 6 – Building a strong, competitive economy  
Chapter 7 – Ensuring the vitality of town centres  
Chapter 8 – Promoting healthy and safe communities  
Chapter 9 – Promoting sustainable transport  
Chapter 12 – Achieving well design places  
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 – Conserving and enhancing the natural environment

Core Strategy 2007

Policy CS1 - General Policy  
Policy CS3 - Biodiversity  
Policy CS5 - The Built Environment  
Policy CS6 - Sustainability in New Developments  
Policy CS7 - Housing Need  
Policy CS8 - Housing Delivery  
Policy CS9 - Affordable Housing  
Policy CS12 - Infrastructure  
Policy CS16 - Managing Transport and Travel

Development Management Policies 2015

Policy DM4 - Biodiversity and New Development  
Policy DM5 - Trees and Landscape  
Policy DM9 - Townscape Character and Local Distinctiveness  
Policy DM10 - Design Requirements for New Developments  
Policy DM11 - Housing Density  
Policy DM12 - Housing Standards  
Policy DM13 - Building Heights  
Policy DM17 - Land Contamination  
Policy DM19 - Development & Flood Risk  
Policy DM21 - Meeting Local Housing Needs  
Policy DM22 - Housing Mix  
Policy DM34 - New Social Infrastructure  
Policy DM35 - Transport and New Development  
Policy DM36 - Sustainable Transport for New Development  
Policy DM37 - Parking Standards

Other Material Documents

- Making the Efficient Use of Land – Optimising Housing Delivery (2018)
- Strategic Housing Market Assessment Update (2019)
- Single Plot and other types of Residential Infill Development SPG (2003)
- Technical Housing Standards – Nationally Described Space Standards (2015)
- Parking Standards for Residential Development SPD (2015)
- Surrey County Council Vehicular and Cycle Parking Guidance (2018)
- Revised Sustainable Design SPD (2016)

## **11 Planning considerations**

11.1 The main planning considerations material to the determination of this application are:

- Presumption in Favour of Sustainable Development
- Housing Need
- Principle of Development
- Housing Density
- Housing Mix
- Affordable Housing
- Design and Visual Impact
- Impact upon Neighbouring Residential Amenity
- Quality of Accommodation
- Proposed Amenity Space
- Highways, Parking and Cycle Parking

- Refuse and Recycling Facilities
- Trees and Landscaping
- Biodiversity and Ecology
- Sustainability
- Flood Risk and Surface Water Drainage
- Land Contamination
- Community Infrastructure Levy (CIL)

## **12 Presumption in Favour of Sustainable Development**

- 12.1 The National Planning Policy Framework 2021 (NPPF 2021) sets out the Government's planning policies for England and how they should be applied. It sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 12.2 Paragraph 12 of the NPPF 2021 stipulates that development proposals which accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted.
- 12.3 Policy CS7 of the Core Strategy 2007 is considered out of date under the terms of the NPPF 2021. The housing target of 188 dwellings per annum was taken from the South East Plan. The South East Plan was revoked in 2012, with housing requirements then to be determined by local need.
- 12.4 The Epsom & Ewell Core Strategy pre-dates the NPPF 2021 and in accordance with paragraph 219 of the NPPF 2021, the policies of the Core Strategy 2007 should be given due weight according to their degree of consistency with the NPPF 2021, In the case of old housing targets within CS7 of the Core Strategy (2007), no weight should be given to it.
- 12.5 The standard method for calculating the Borough's assessed housing need identifies a housing requirement of 579 new homes each year. In the absence of a five year housing land supply, this increases to 695 under the housing delivery test, published 13 February 2020. Epsom & Ewell Borough Council is presently falling significantly short of this requirement and cannot presently demonstrate five years housing land supply.



- 12.6 Paragraph 11d of the NPPF 2021 is engaged via Footnote 8 for applications involving the provision of housing where Local Planning Authorities cannot demonstrate a five year supply of deliverable housing sites. The practical application and consequence of this is that unless the site is located in an area or affects an asset of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF 2021 as a whole.
- 12.7 The site is located within a built up area and does not affect assets of particular importance such as SSSI, AONB, European or National Ecological Designations, Green Belt or any other given additional weight by the NPPF (2019). When considering the principle of development, the presumption in favour of sustainable development is fundamental in this case.

### **13 Housing Need**

- 13.1 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 specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 13.2 Paragraph 69 of the NPPF 2021 states [inter alia] that small and medium sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
- 13.3 Policy CS7 of the Core Strategy 2007 states that the Council will seek to ensure sufficient housing is provided to meet the Borough's housing requirement. The Council's annual housing target has increased significantly since the adoption of the Core Strategy and Epsom and Ewell Borough Council currently has an annual housing target of 695 new residential dwellings per year under the Housing Delivery Test as published on 13 February 2020.
- 13.4 Meeting the increased annual housing target is challenging. The Borough is constrained by its significant areas of designated strategic open spaces or Green Belt. In addition, the quality of its existing built-up areas is generally high. Consequently, the supply of available development sites is limited. As a result, it is important that available sites are optimised for housing delivery but without compromising the quality of the built environment.

- 13.5 The Council has previously determined the best solution to address the constraint of land availability in the Borough and the pressing need to address a substantial deficit in its housing land supply at the 8 May Licensing and Planning Policy Committee by passing the approval of the policy document entitled 'Making the Efficient Use of Land – Optimising Housing Delivery' 2018 as a material consideration in the determination of planning applications.
- 13.6 This document highlights the Councils acknowledgement that the significant housing need, housing land supply shortfall results in the need to optimise previously developed land within the town centre to accord with the guidance of the NPPF to maintain a deliverable supply of housing land to meet local housing needs and to make effective use of previously developed (brownfield) land pursuant to this aim. This is an imperative national and local material consideration.
- 13.7 Accordingly, and in accordance with the 'Making the Efficient Use of Land – Optimising Housing Delivery' May 2018 document the Borough Council has agreed that sites considered available, deliverable, and developable, such as the application site, should be 'fully optimised to positively respond to our objectively assessed housing need'. The document identifies that this may require developing to a higher density and building height than policy currently permits or has previously been considered acceptable. The document also identifies that 'in order to reach a balanced decision, the Borough Council's Planning Committee may attribute greater weight towards the need to deliver new additional homes.' (paragraph 3.3) in decision making.
- 13.8 Therefore, it is imperative that optimal use of the application site is made to assist the Borough with aiming towards meeting its local housing needs and any conflict with existing historic policy approaches to density should be given limited weight and greater weight should be given to the need to deliver homes to meet the local housing need, the significant five year land supply shortfall and the desire to preserve the Green Belt.

#### **14 Principle of Development**

- 14.1 Paragraph 59 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.

- 14.2 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.
- 14.3 Paragraph 122 of the NPPF 2021 states that planning policies and decisions should support development that makes sufficient use of land taking into account: (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens) or of promoting regeneration and change.
- 14.4 Given the significant housing need within the Borough, it is considered that the redevelopment of this site at a higher density creating additional residential units within a sustainable location is acceptable in principle, subject to the below other material planning considerations.

## **15 Housing Density**

- 15.1 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.
- 15.2 Meeting any increase in the annual housing building target will be challenging. With the Borough being mostly comprised of existing built up areas, strategic open spaces or Green Belt, the supply of available development sites is now extremely limited. It is therefore important that available sites are optimised for housing delivery.
- 15.3 Paragraph 125 of the NPPF 2021 highlights that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.
- 15.4 Policy DM11 of the Development Management Policies Document 2015 states [inter alia] that in principle, proposals for new housing that make the most efficient use of sites within the boroughs urban area will be supported in principle.

- 15.5 The proposed housing density per hectare of the site is 105 units. Policy DM11 of the Development Management Policies Document 2015 further states [inter alia] that site density should not usually exceed 40 units per hectare however, exceptions to this approach are considered where the following can be demonstrated:
- the site enjoys good access to services, facilities and amenities via existing public transport, walking and cycling networks; and
  - The surrounding townscape has sufficient capacity to accommodate developments of higher density.
- 15.6 The site is in a sustainable location with excellent access to facilities and transport as set out below:
- The site is within 400 metres from a bus stop that provides regular and frequent access to the main Town Centre, local railway stations and main hospital
  - A network of secure cycle and walking routes can be found throughout the area
  - The site has good walking access to local facilities such as supermarkets, schools, pharmacy, post office and places of working within, all within a 1k walk (between 10-15 minutes)
- 15.7 Furthermore, at Planning and Licencing Committee in May 2018 it was agreed that given the borough's objectively assessed housing need of 697 units, it is important to improve the optimisation of housing delivery for development sites in the borough. It states within the report that the optimisation of development sites 'may result in development that exceeds the density and / or height parameters of Policy DM11, Policy DM13 and Plan E Policy E7'. The purpose of this committee was to reduce the weight given to these policies during decision making and as such, the weight afforded to these policies is not significant enough to warrant the refusal of a planning application on the basis that the proposed housing density is not policy compliant.
- 15.8 Given the sustainability of the location and that the review into Council policies relating to height and density has reduced their weight in decision making, it is considered that the density of the proposal would be acceptable.

## 16 Housing Mix

16.1 Paragraph 124 of the NPPF 2021 states that planning policies and decisions should support development that makes efficient use of land, taking into account the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.

16.2 Policy DM22 of the Development Management Policies Document 2015 states [inter alia] that the Council require all residential development proposals for four or more units be comprised of a minimum of 25% 3+ bedroom units, unless it can be demonstrated that the mix would be inappropriate for the location or endanger the viability of the proposal.

16.3 Chapter 3 of the Council's Strategic Housing Market Assessment Update 2019 recommends that the breakdown of dwellings by size should be: 10% for 1 bedroom units, 50% for 2 bedroom units, 30% for 3 bedroom units and 10% for 4 bedroom units.

1 Bed	2 Bed	3 Bed	4 + Bed
10%	50%	30%	10%

16.4 The application proposes the following mix on the site:

1 Bed	2 Bed	3 Bed	4 + Bed
4 (20%)	11 (55%)	5 (25%)	0 (0%)

16.5 Although the proposed development involves a much higher proportion of smaller units than encouraged with the Council's Strategic Housing Market Assessment Update 2019, Officers consider that the provision of a higher percentage of smaller units within a sustainable location could be considered appropriate, as it would result in a more efficient use of land.

16.6 Whilst the proposed mix is not compliant with Policy DM22 of the Development Management Policies Document 2015, the proposed development must also be considered against the high demand for smaller units and the requirement to make effective and efficient use of land and the site. On this basis, it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.

16.7 Furthermore, the Planning Inspector did not raise concern against the higher number of smaller units proposed under the previous appeal scheme (20/00288/FUL). The housing mix is therefore assigned minor negative weight in the planning balance.

**17 Affordable Housing**

- 17.1 Paragraph 63 of the NPPF 2021 states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - b) the agreed approach contributes to the objective of creating mixed and balanced communities.
- 17.2 Paragraph 65 of the NPPF 2021 states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.
- 17.3 Policy CS9 of the Core Strategy 2007 states that the Council has a target that overall, 35% of new dwelling should be 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.
- 17.4 Therefore, to be fully compliant with Policy CS9 of the Core Strategy 2007, the proposal development would be required to provide 8 on site affordable units.
- 17.5 Paragraph 58 of the NPPF 2021 states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 17.6 Paragraph 3.12.11 of the Core Strategy 2007 states that where there are specific and overriding site constraints, or where development-specific issues inhibit the provision of affordable housing, off site provision or financial contributions may be acceptable.

- 17.7 A Financial Viability Appraisal, prepared by S106 Management, dated 13/09/2021 has been submitted in support of this application by the applicant. The Financial Viability Appraisal concludes that the offer of 10% (2 units) affordable units is the maximum that the site can viably provide.
- 17.8 The Viability Appraisal has been independently scrutinised by Viability Consultants BPC, on behalf of the Local Planning Authority. The provision of the provision of 10% affordable housing as part of the scheme has been tested by the Council's Viability Consultants, who have agreed that with the findings of the Financial Viability Appraisal, that the site can viably provide a maximum of two affordable units at the site
- 17.9 The applicants have advised that these units would be affordable rented via the shared ownership scheme, which would be the situation as per the agreed unilateral undertaking secured under the previous application 20/00288/FUL.
- 17.10 This would therefore meet the requirement of paragraph 64 of the NPPF 2021, which expects at least 10% of units in major development to be affordable.
- 17.11 However, the absence of an appropriate mechanism to secure the affordable housing on site contribution would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.

## **18 Design and Visual Impact**

- 18.1 The NPPF 2021 attaches great importance to the design of the built environment. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities
- 18.2 Paragraph 130 of the NPPF 2021 states [inter alia] that developments should function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history.
- 18.3 Paragraph 135 of the NPPF 2021 states that that which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- 18.4 Paragraph 3.7.5 of the Core Strategy 2007 sets out that new development should enhance and complement local character and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm, and which positively contributes to the townscape.
- 18.5 Policy DM10 of the Development Management Policies Document 2015 states [inter alia] that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:
- Prevailing development typology, including house type, sizes, and occupancy;
  - Prevailing density of the surrounding area;
  - Scale, layout, height, form, massing;
  - Plot width and format which includes spaces between buildings;
  - Building line build up, set back, and front boundary; and
  - Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.
- 18.6 Policy DM13 of the Development Management Policies Document (2015) states [inter alia] that buildings higher than 12 metres will be inappropriate in all areas of the Borough except the identified areas within the Epsom Town Centre Boundary where buildings up to a maximum height of 16 metres will be allowed in certain locations.
- 18.7 However, as set out in this report, in May 2018, the Licensing and Planning Policy Committee took a decision to set aside Policy DM11 and Policy DM13 of the Development Management Policies Document 2015. This was based on the aforementioned policies restricting opportunities for growth in the Borough. It should be noted that these policies remain part of the development plan, however they are afforded limited weight in the decision-making process and have regard to the presumption of sustainable development.
- 18.8 The site lies in Character Area 10 as defined in the Epsom and Ewell Borough Council Character Study 2008. The study identifies the predominate built form of this character area to be two storey, semi-detached development from the 1930's and 1950's -1970's, together with occasional blocks of flats, terraces and detached properties.



- 18.9 To the north east of the site is a corner plot that accommodates a three storey flatted development (Willow Court) which has frontages to both Ruxley Lane and Cox Lane. Adjacent to Willow Court on Cox Lane frontage are a row of three storey town houses, beyond which is a more densely built up suburban area of predominantly two storey development.
- 18.10 In comparison, the buildings adjacent to Willow Court on the Ruxley Lane frontage are two storey and to accommodate for this, Willow Lodge steps down from three storey to two storey adjacent to this built form.
- 18.11 The site has a generous, deep open frontages are verdant in character, with the existing associated built form set well back from the highway. The proposed development would replace the existing two storey dwelling and bungalow with a four storey block fronting Ruxley Lane, with a further two storey block of flats set behind, hard up against the rear boundary, which abuts a garage court serving Larkspur Way.
- 18.12 Vehicular access to the site is via Ruxley Lane and to accommodate the Council's parking standard on the site, a significant amount of hard standing is proposed on site, intervening the two proposed blocks of residential units.
- 18.13 In considering the appeal under 20/00288/FUL, the Inspector noted that the scale of the development was the crux of the matter for consideration, as there was no objection from either the Council or the Inspectorate in principle to residential development on this site, or indeed to a flatted development.
- 18.14 When considering the issue of scale, the Inspector paid special attention to eaves height of the southern (front) block of flats in comparison to adjacent Willow Court and 144 Ruxley Lane, noting that 'the proposed development would give rise to an overbearing relationship with both adjacent buildings on Ruxley Lane, significantly so in respect of no. 144; and which would be harmful to the character and appearance of the street scene' (paragraph 10 Appeal ref: APP/P3610/W/20/3263842).
- 18.15 The Inspector also gave consideration to the cumulative effect of the two blocks of flats within the site, stating that 'the combination of the two storey block to the rear and the intervening hard surfacing..... the site would appear over developed and would be in conflict with the.... suburban pattern of development'. (Paragraph 8 Appeal ref: APP/P3610/W/20/3263842).

- 18.16 The current application has sought to address the concerns raised by the Inspector by introducing a series of setbacks and varying roof heights to the front block, thereby attempting a more natural transition between the adjacent buildings and by reducing the intervening hard surfacing on the site.
- 18.17 Whilst Officers generally welcome a reduction in height of the front block in comparison to the scheme refused under 20/00288/FUL, the overall height of proposed front block only represents a minimal 1.3 metre reduction, reducing from 12.8 metres to 11.5 metres.
- 18.18 Furthermore, the scheme under 20/00288/FUL previously attempted a transition between the two storey height of 144 Ruxley Lane and the four storey height of the front block by introducing a two storey element to the boundary of this neighbouring property. Although the current scheme retains this transitional element, its height has increased by 2.6 metres in order to provide accommodation in the hipped roof. However, a visual gap between the two storey flank elevation of 144 Ruxley Lane and the front block has been increased from 4.2 metres to 7.9 metres.
- 18.19 Whilst the retention of the transitional element with an extended visual gap to the built form of 144 is welcomed, the increase in the gap is not significant and the combination of the increase in height from two storey to 2.5 storey and the abrupt increase from 2.5 stories to the predominant four storey scale of the front block only serves to diminish the contribution this transition plays as a visual relief between the two storey height of 144 Ruxley Lane and the four storey height of the front block. Under this current scheme, the front block would give rise to a significant overbearing relationship with 144 Ruxley Lane, which would be harmful to the character and appearance of the street scene.
- 18.20 It is noted that the height of the front block would remain lower than main ridge of Willow Court, although the hipped roof design would reduce some bulk in comparison to the scheme refused under 20/00288/FUL. However, the Inspector noted when concluding the appeal that 'the front block of flats would have an eaves height far greater than the two storey element of Willow Court which runs counter to its existing reduction in hierarchy and form' (Paragraph 7 Appeal ref: APP/P3610/W/20/3263842). The eaves height of the current scheme would remain at a height far greater than the eaves of the two storey element of Willow Court and with only a minimal reduction in overall height, the front block would give rise to an overbearing relationship with Willow Court, which would be harmful to the character and appearance of the street scene.

- 18.21 Furthermore, the design of the front block has been contrived in an attempt to accommodate the Inspector concerns regarding the scale of the built form, whilst seeking to maximise the units on site, which has resulted in the visual appearance of the front block as being unbalanced, with a myriad of varying roof forms, eaves dormer windows, roof dormer windows of differing styles and a variety of balconies which, in culmination, represents a poorly conceived and incohesive development that would fail to respond to the existing character and appearance of the area.
- 18.22 To address the Inspectors concerns in respect to the amount of intervening hard surfacing between the front and back block, the current scheme has reduced the footprint of the rear block by 77m<sup>2</sup>, thereby decreasing the hard surfacing on site by this amount. However, this represents a very minimal reduction in hard surfacing on the site, with the land intervening the two blocks remaining hard surfaced at a level similar to that refused under the previously scheme.
- 18.23 Paragraph 127 (c) of the NPPF 2021 requires development to be sympathetic to the surrounding built environment. The overall scale of the proposed built form, in combination with the intervening hard surfacing, would represent an overdevelopment of the site that would conflict with the pattern of development in the locality and would give rise to an overbearing relationship with the adjacent buildings.
- 18.24 Furthermore, as a result of its overall design, the proposed development would fail to be visually attractive or a sympathetic addition to the street scene, causing harm to the character and appearance of the area.
- 18.25 In accordance with paragraph 134 of the NPPF 2021, the permission should be refused as it would be, contrary to paragraph 130 of the NPPF 2021, Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007, Policies DM9 and DM10 of the Epsom and Ewell Development Management Policies 2015, the Epsom and Ewell Borough Council Character Study and the Epsom and Ewell Single Plot and other types of Residential Infill Development SPG 2003.

## **19 Impact upon Neighbouring Residential Amenity**

- 19.1 Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policy Document 2015 sets out that development proposals will be required to incorporate principles of good design. Development proposals should also have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance.

- 19.2 As a result of the overall height and form of the proposed development, it is key to consider the impact upon surrounding residents from the built form in terms of outlook, daylight/sun lighting and privacy.
- 19.3 The neighbouring properties most likely to have their amenities impacted upon by the proposed development are 144 Ruxley Lane, Willow Court and Larkspur Way.

144 Ruxley Way

- 19.4 144 Ruxley Lane is located to the south west of the site and the south west side elevation of the front block would be located 5.5 metre from the shared boundary, with 6.1 metres to be retained between the built form. Whilst the built form of the front block would extend beyond the rear elevation of 144 Ruxley Lane, these distances would prevent this block from having a harmful overbearing impact upon the occupiers of this neighbouring property.
- 19.5 As a result of its location to the south west of the proposed development, the occupiers of 144 Ruxley Lane would not suffer from any loss of light or loss of daylight impacts as a result of the proposed development.
- 19.6 In terms of overlooking, 144 Ruxley Lane features two high level windows at ground floor level and one window at first floor level in the north east side elevation of this property. The windows proposed on the south west side elevation of the front block would either be restricted to obscure views or would be orientated towards the front curtilage. Such levels of overlooking would not cause harm to the private amenities of the occupiers of this neighbouring property.
- 19.7 A third floor roof terrace is proposed on the front block. As a result of the orientation and proximity of this roof terrace to the private curtilage of 144 Ruxley Lane, future occupiers of the front block would achieve clear and direct views this neighbouring private amenity area, causing significant harm to the amenities of the occupiers of 144 Ruxley Lane. This situation would be exacerbated as the roof terrace would provide external floor area, which would provide opportunities for prolonged overlooking.
- 19.8 Whilst it is acknowledged that this direct overlooking could be mitigated by the use of suitable screening, any screening would be required to completely enclose the roof terrace, leading to an oppressive environment and unsatisfactory living conditions for the future occupants as a result of the restricted amenity space.

- 19.9 Although there are balconies proposed at first and second floor level on the north west rear elevation of the front block, the views achieved from these balconies would be at an angle and could be mitigated by screening to the side, leaving the front of the balcony open.

Willow Court

- 19.10 The front block would be located 0.7 metres from the boundary shared with Willow Court and there would be a 3.0 metre distance between the two built forms.
- 19.11 The south west side elevation of Willow Court contains windows at first floor level serving primary accommodation (a bedroom and a kitchen). The north east side elevation of the front block would extend to four stories on this shared boundary and would be within close proximity to these windows, restricting daylight and sunlight to the primary accommodation as well as providing a poor outlook.
- 19.12 This would give rise to the occupiers experiencing a strong sense of enclosure and would create dark and gloomy primary living accommodation that, combined with the poor outlook, would result in an overly oppressive environment for the occupiers of these affected flats.
- 19.13 The south west elevation of the front block would also directly face a roof terrace associated with Willow Court. The front block contains unrestricted windows at third floor level on the north east side elevation that would provide clear and direct views of this roof terrace, causing detrimental harm to the private amenities of the occupiers of this neighbouring property.

126 Larkspur Way

- 19.14 It is considered that this neighbouring property is located at a sufficient distance from the proposed development to prevent any issues of loss of light, loss of outlook or any overbearing impacts.
- 19.15 The rear block contains windows in the rear elevation at first floor level that could provide for clear and direct views of the curtilage associated with 126 Larkspur Lane if left unrestricted. Given that these windows are either secondary windows serving a room or serve secondary accommodation, in the event permission is granted, it would be reasonable to recommend that these windows are obscurely glazed and top opening only, in order to protect the amenities of the occupiers of this neighbouring property in the future.

1 Alpine Close

- 19.16 Although the rear block would have a greater presence upon the occupiers of 1 Alpine Close in comparison to the existing situation, given the orientation between the rear block and this neighbouring property, with the rear block set forward of the primary elevation of this neighbouring property, Officers are satisfied that the proposal would not cause any issues of loss of light, loss of outlook, loss of privacy or be overbearing in nature.

General Amenity

- 19.17 In terms of general amenity, whilst the proposed development is likely to generate a greater level of domestic noise through pedestrians arriving and leaving the site than the current situation, this level would not be to an extent that would be incongruous within the surrounding residential context.
- 19.18 The construction phase of the development has the potential to cause disruption and inconvenience to nearby occupiers and users of the local highway network. However, these issues are transient and could be minimised through the requirements of planning conditions if permission were to be granted.
- 19.19 In light of the above, the proposal would cause material harm to the private amenities of surrounding properties by way of loss of light, loss of outlook and loss of privacy, contrary to Policy DM10 of the Development Management Policy Document 2015 and the guidance set out in the Council's Residential Infill Development SPG 2003.

**20 Quality of Accommodation**

- 20.1 Policy DM12 of the Development Management Policies Document 2015 states that all new housing developments, including conversions, are required to comply with external and internal space standards.
- 20.2 The Nationally Described Space Standards (2015) sets out internal space standards for new dwellings at a defined level of occupancy. It further states that in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and in order to provide two bed spaces, a double (or twin bedroom) has a floor area of at least 11.5m<sup>2</sup>.
- 20.3 The application is proposing 25 units, comprising 21 no. two-bed flats, 2 no. one-bed flats and 2 no. three-bed flats.

- 20.4 Using the plans submitted, the following table provides an analysis of the internal floor area against technical standards:

Flat Number (bed/person)	National Standard	Proposed Internal Area	Meets Standards
Flat 1 (1b/2p)	50m <sup>2</sup>	58m <sup>2</sup>	✓
Flat 2 (3b/5p)	86m <sup>2</sup>	73m <sup>2</sup>	x
Flat 3 (2b/3p)	61m <sup>2</sup>	63m <sup>2</sup>	✓
Flat 4 (2b/3p)	61m <sup>2</sup>	67m <sup>2</sup>	✓
Flat 5 (3b/4p)	74m <sup>2</sup>	72m <sup>2</sup>	x
Flat 6 (3b/5p)	86m <sup>2</sup>	73m <sup>2</sup>	x
Flat 7 (2b/3p)	61m <sup>2</sup>	63m <sup>2</sup>	✓
Flat 8 (2b/3p)	61m <sup>2</sup>	63m <sup>2</sup>	✓
Flat 9 (2b/3p)	61m <sup>2</sup>	68m <sup>2</sup>	✓
Flat 10 (2b/4p)	70m <sup>2</sup>	65m <sup>2</sup>	x
Flat 11 (2b/3p)	61m <sup>2</sup>	64m <sup>2</sup>	✓
Flat 12 (2b/3p)	61m <sup>2</sup>	63m <sup>2</sup>	✓
Flat 13 (1b/2p)	50m <sup>2</sup>	52m <sup>2</sup>	✓
Flat 14 (2b/4p)	70m <sup>2</sup>	76m <sup>2</sup>	✓
Flat 15 (3b/5p)	86m <sup>2</sup>	74m <sup>2</sup>	x
Flat 16 (2b/3p)	61m <sup>2</sup>	57m <sup>2</sup>	x
Flat 17 (3b/5p)	86m <sup>2</sup>	81m <sup>2</sup>	x
Flat 18 (2b/3p)	61m <sup>2</sup>	57m <sup>2</sup>	x
Flat 19 (1b/2p)	50m <sup>2</sup>	45m <sup>2</sup>	x
Flat 20 (1b/2p)	50m <sup>2</sup>	46m <sup>2</sup>	x

- 20.5 The above table demonstrates that half of the proposed residential units would fail to meet the technical housing standards and would therefore provide a substandard quality of living accommodation for future residents.
- 20.6 It is noted that the bedroom in Flat 1 would be served by a restricted window, which would be obscurely glazed and top opening only. Such a restriction on the only window serving primary accommodation would severely impede the outlook from this window, giving rise to a strong sense of enclosure and overly oppressive environment for the future occupants.
- 20.7 Similarly, the bedrooms in Flats 10, 19 and 20 would all be served by rooflights. Whilst these openings would allow light and air to circulate these primary rooms, they would severely restrict outlook for the occupants as a result of their orientation within the roof slope.

- 20.8 It is therefore considered that the proposal would create substandard residential units that would provide unsatisfactory living conditions for future occupiers due to inadequate internal floor area, daylight, sunlight and outlook provisions, contrary to Policy DM12 of the Development Management Policies Document (2015) and the Nationally Described Space Standards (2015)

## 21 Proposed Amenity Space

- 21.1 Paragraph 130 of the NPPF 2021 states that planning decision should ensure that developments (inter alia) create places that are accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 21.2 Policy DM12 of the Development Management Policies Document 2015 states that all new housing developments that provide adequate internal space and appropriate external private and/or communal amenity space to meet the needs generated by the development.
- 21.3 Paragraph 3.36 of the supporting text for Policy DM12 of the Development Management Policies Document 2015 states that to provide adequate private amenity space for development of flats, a minimum of 5m<sup>2</sup> of private amenity space for 1-2 person dwellings should be provided and an extra 1 m<sup>2</sup> should be provided for each additional occupant. A 3 person flat should have a 6m<sup>2</sup> balcony, and a 4 person flat should have a 7m<sup>2</sup> balcony.
- 21.4 The residential units in the front block are all served by balconies as follows:

Flat Number (bed/person)	Policy Minimum	Proposed Amenity Area	Meets Standards
Flat 1 (1b/2p)	5m <sup>2</sup>	6.2m <sup>2</sup>	✓
Flat 2 (3b/5p)	7m <sup>2</sup>	6.5m <sup>2</sup>	x
Flat 3 (2b/3p)	6m <sup>2</sup>	5.9m <sup>2</sup>	x
Flat 4 (2b/3p)	6m <sup>2</sup>	4.9m <sup>2</sup>	x
Flat 5 (3b/4p)	7m <sup>2</sup>	5.8m <sup>2</sup>	x
Flat 6 (3b/5p)	7m <sup>2</sup>	5.0m <sup>2</sup>	x
Flat 7 (2b/3p)	6m <sup>2</sup>	4.4m <sup>2</sup>	x
Flat 8 (2b/3p)	6m <sup>2</sup>	4.3m <sup>2</sup>	x
Flat 9 (2b/3p)	6m <sup>2</sup>	5.7m <sup>2</sup>	x
Flat 10 (2b/4p)	7m <sup>2</sup>	5.0m <sup>2</sup>	x
Flat 11 (2b/3p)	6m <sup>2</sup>	4.1m <sup>2</sup>	x
Flat 12 (2b/3p)	6m <sup>2</sup>	4.2m <sup>2</sup>	x
Flat 15 (3b/5p)	7m <sup>2</sup>	13.4m <sup>2</sup>	✓
Flat 16 (2b/3p)	6m <sup>2</sup>	17.5m <sup>2</sup>	✓



- 21.5 The table above demonstrates that only three of the proposed residential units (Flat 1, Flat 16 and Flat 17) meet or exceed the minimum requirement. The balconies provided to the remainder of the residential units all fail to meet the minimum policy requirements.
- 21.6 Paragraph 3.36 of the supporting text for Policy DM12 of the Development Management Policies Document (2015) advises that where appropriate in terms of visual character and appearance, flats at upper levels may have a private useable balcony area, in addition to having access to communal open space.
- 21.7 It should be noted that the wording of this policy does not negate the need for future occupiers to be provided with good quality, private amenity space. Communal amenity space is to supplement private amenity space and should not be considered as an alternative to providing future occupiers of residential units with well-designed and adequate private amenity space within the site.
- 21.8 It is noted that approximately 282m<sup>2</sup> of communal amenity space is proposed to serve those flats that do not have the benefit of any private balcony space. Whilst it is acknowledged that this is a high level of provision, it would be shared by a number of future residents and would not be private. The future occupiers of these units would not have the benefit of any private amenity area to carry out normal domestic functions, such as drying clothes.
- 21.9 Furthermore, the communal amenity spaces proposed would be highly overlooked by the occupiers of the blocks of flats and surrounding residential properties. In some cases, the communal open space would be overlooked by balconies, which would provide opportunities for prolonged overlooking, making the area less attractive for the purposes of informal recreation.
- 21.10 The proposal would fail to provide adequate private amenity space to serve the future occupiers of the development thereby providing unsatisfactory living conditions for future occupiers, contrary to paragraph 130 of the NPPF 2021 and Policy DM12 of the Development Management Policies Document 2015.

## **22 Highways, Parking and Cycle Parking**

- 22.1 Paragraph 111 of the NPPF 2021 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 22.2 Policy CS16 (Managing Transport and Travel) of the Core Strategy 2007 encourages development proposals that foster an improved and integrated transport network and facilitate a shift of emphasis to non-car modes as a means of access to services and facilities.
- 22.3 This policy further emphasises that development proposals should provide safe, convenient, and attractive accesses for all, including the elderly, disabled, and others with restricted mobility and be appropriate for the highways network in terms of the volume and nature of traffic generated, provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements.
- 22.4 Furthermore, this policy stipulates that development proposals must ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, not materially increase other traffic problems.
- 22.5 The application is accompanied by a Transport Statement, prepared by Lanmor Consulting, reference 202149/TS/JR/RS/03.
- 22.6 The existing highway network surrounding the site comprises Ruxley Lane, which is a single carriage way residential street subject to a 30 mph speed limited and benefits from street lighting and footpaths.
- 22.7 There are a number of public footpaths within the vicinity of the site which provide a pedestrian network to the surrounding major and minor roads. Again, these benefit from street lighting, with the majority actively overlooked by residential development. There are no identified cycle routes within the vicinity.
- 22.8 Although the Transport Statement has not provided an analysis of the Personal Injury Accident data for the most recent five year period available for the highway network in the vicinity of the site, it has not identified any significant existing problems with the layout of the highway network itself that would be affected by traffic from the proposed development.
- 22.9 In order to predict the traffic generation and flow associated with the proposed development, the Transport Statement advises that TRICS (Trip Rate Information Computer System) database has been used, using sites that are similar in characteristics with the proposed development. The TRICS database estimates a daily total of 66 vehicles trips would be associated with the proposed development.

- 22.10 The Transport Statement has considered the impact of this additional traffic generation on the local transport network, giving particular attention to the traffic pattern flows generated by Epsom and Ewell High School, the main access to which is directly opposite the site and is served by a dedicated right turn lane.
- 22.11 Using junction capacity software, the Transport Statement has concluded that the traffic generation created by the proposed development would function within capacity in culmination with the flow of traffic entering and exiting the school at peak times.
- 22.12 The County Highway Authority is satisfied that the TRICS Assessment and the junction capacity assessment undertaken and reported within the Transport Statement provides a robust and realistic assessment of the likely impact of the proposed development on the highway network and that the residual cumulative impacts of the development would not have a material impact on the capacity of the surrounding network.
- 22.13 The proposal involves closing the existing access point onto Ruxley Lane and creating a new access further south to the site. The new access arrangement would be in the form of a bellmouth., with visibility splays appropriate for the 30mph speed limit on Ruxley Lane. Tactile paving is proposed across the entrance.
- 22.14 The County Highway Authority have assessed the detailed design of the proposed vehicle access and internal road network and have confirmed that sufficient space would be provided within the site for vehicles to park and for vehicles to turn, in order for them to enter and leave in forward gear.
- 22.15 The County Highway Authority have raised no objection against the proposal in terms of impact on the operation of the network or highway safety, subject to conditions, in the event permission is granted, to secure a Construction Transport Management Plan and to ensure that the proposed access, visibility splays and parking are constructed in accordance with any approved plans.
- 22.16 Policy DM37 of the Development Management Policies Document 2015 seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.

22.17 The Council's Parking Standards for Residential Development SPD 2015 requirements for car parking provision within residential developments are a minimum of 1.0 vehicle space for one and two bed flat units and 1.5 spaces for three bed flats. The scheme would therefore be required to provide 22.5 vehicle parking spaces within the site in order to be policy compliant.

22.18 The proposed development would provide 22 vehicle parking spaces, which is a shortfall of 0.5 of a vehicle parking space. However, given that the site is located within a sustainable location with walking access to amenities and a choice of transport modes, this shortfall would represent minor adverse material consideration to weigh in the planning balance against other considerations for this application.

22.19 The proposed development would provide cycling facilities for the secure storage of 20 cycles, which would accord with the Council's Policy on cycle parking. In the event permission is granted, it is recommended that these facilities are provided prior to the occupation of the proposed development.

### **23 Refuse and Recycling Facilities**

23.1 Policy CS6 (Sustainability in New Developments) of the Core Strategy (2007) sets out [inter alia] that proposals for development should result in a sustainable environment and to conserve natural resources, waste should be minimised and recycling encouraged. Development should incorporate waste management processes.

23.2 Annex 2 of the Council's Revised Sustainable Design SPD (2016) sets out the refuse and recycling requirements for flatted development. It states [inter alia] that storage areas for communal wheeled bins and recycling needs to allow sufficient room for both refuse and recycling containers to be stored and manoeuvred and be within 6 metres of the public highway. It further states that if more than four 240 litre bins are to be emptied, then the collection vehicle should be able to enter the development to avoid the risk of obstructing traffic.

23.3 The site would provide external storage for:

- 2 x 1100 litre refuse bin
- 5 x 1100 litre mixed recycling bin
- 1 x 1100 litre glass bin
- 1 x 600 litre food waste bin

- 23.4 It has been demonstrated within the Transport Statement by Swept Path Assessment that a refuse/recycle vehicle can enter the site, turn and exit the site in a forward gear, even in the event that the vehicle parking spaces within the site are occupied. The Swept Path Assessment has been reviewed by the County Highway Authority and raised no concerns.
- 23.5 Having reviewed the refuse/recycling arrangements proposed, the Council's Transport and Waste Services Manager considers them to be acceptable in terms of capacity, storage and access.
- 23.6 As such, Officers are satisfied that the proposed development would meet Policy CS6 (Sustainability in New Developments) of the Core Strategy (2007) and the requirements of Annex 2 of the Council's Revised Sustainable Design SPD (2016).

## **24 Trees and Landscaping**

- 24.1 Paragraph 131 of the NPPF 2021 notes the important contribution that trees make to the character and quality of urban environments, as well as helping to mitigate climate change. Planning decisions should take opportunities to incorporate trees elsewhere in development, that appropriate measures are in place to secure the long term maintenance of newly planted trees and that existing trees are retained wherever possible.
- 24.2 Policy DM5 (Trees and Landscape) of the Development Management Policies Document (2015) sets out that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by [inter alia]:
- continuing to maintain trees in streets and public open spaces and selectively removing, where absolutely necessary, and replacing and replanting trees; and
  - requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature trees and other planting.

The application is accompanied by an Arboricultural Impact Assessment Report prepared by DPA Arboricultural Consultants, dated July 2021. The report confirms that it is proposed to remove 6 trees at the site, all of which are considered not to be significant to the local or wider landscape.

- 24.3 The Council's Tree Officer has thoroughly reviewed the submitted documents and found them to provide a fair representation of the tree situation on site. The Council's Tree Officer and has raised no objection to the loss of the identified trees and has raised no concerns relating to the future health of the trees to be retained.
- 24.4 Subject to, in the event permission is granted, conditions to secure an Arboricultural Method Statement and Tree Protection Plan to ensure that the trees marked for retention are protected during construction works and the operational phase, as well as conditions to secure a soft landscaping scheme with associated maintenance plans, the proposal would accord with Policy DM5 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

## **25 Biodiversity and Ecology**

- 25.1 The Local Planning Authority have a duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 25.2 Paragraph 180 of the NPPF 2021 states (inter alia) that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 25.3 Policy CS3 of the Core Strategy 2007 sets out that development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 25.4 Policy DM4 of the Development Management Policies Document 2015 seeks to ensure that new development takes every opportunity to enhance the nature conservation potential of a site and secure a net benefit to biodiversity. It sets out that development affecting any site or building that supports species protected by Law including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.

- 25.5 The application is supported by an Ecological Survey, prepared by AA Environmental Limited, reference 203085/JDT and dated 16 February 2021 and correspondence also prepared by Ethos dated 27 April 2021, which concludes that there was no evidence of protected species recorded either within the existing buildings or externally within the site.
- 25.6 Notwithstanding this, in the event permission was granted, it would be reasonable for Officers to recommend ecological mitigation measures in line with current legislation, such as advising for works to stop and Natural England contacted in the event bats are discovered on site, for site clearance to avoid bird nesting season, to minimise light spillage and to provide suitable protective fencing to protect retained landscaping.
- 25.7 In order to provide some biodiversity enhancements at the site, in accordance with the requirements set out in Policy DM4 of the Development Management Policies Document 2015 and paragraph 180 of the NPPF 2021, in the event that planning permission is granted, the recommendations for biodiversity net gain at the site as set out within the Ecological Survey should be secured by condition. These gains include securing suitable native planting of known value to wildlife and the installation of bird nesting and bat roosting boxes at the site.
- 25.8 Subject to the abovementioned conditions should permission be granted; the Local Planning Authority are satisfied that they have carried out their duty of care under Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 to protect the species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 25.9 The proposal would not prejudice the existing ecological value of the site and would enhance the conservation potential of a site in accordance with Policy CS3 of the Core Strategy 2007, Policy DM4 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

## **26 Sustainability**

- 26.1 Policy CS6 of the Core Strategy 2007 states [inter alia] that development should result in a sustainable environment and ensure that new development minimises the use of energy in the scheme, minimises the emission of pollutants into the wider environment, minimises the energy requirements of construction and incorporates waste management processes.

26.2 The application is supported by a Design and Access Statement, prepared by Form Design Group, reference 1726 and dated July 2021 which (at Section 6) demonstrates how the proposed development would incorporate a number of sustainability and energy efficiency measures, such as mechanical ventilation systems, condensing gas boilers, water efficient measures and sustainable construction measures.

26.3 As such, it is considered that the proposal would be able to secure a sustainable development outcome and would therefore accord with Policy CS6 of the Core Strategy (2007)

## **27 Flood Risk and Surface Water Drainage**

27.1 Paragraph 167 of the NPPF 2021 states that when determining any planning applications, LPAs should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

27.2 Paragraph 169 of the NPPF 2021 sets out that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.

27.3 Policy CS6 of the Core Strategy 2007 states that proposals for development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change. In order to conserve natural resources, minimise waste and encourage recycling, the Council will ensure that new development [inter alia] avoids increasing the risk of, or from flooding.

27.4 Policy DM19 of the Development Management Policies Document 2015 states that the Council will expect development to reduce the volume and rate of surface water run-off through the incorporation of appropriately designed Sustainable Drainage Systems (SuDs) at a level appropriate to the scale and type of development.

27.5 The application is supported by a Flood Risk Assessment, prepared by Lanmor Consulting, referenced 202149/FRA/MK/RS/03 dated July 2021.



- 27.6 The site is located in an area of low flood risk, outside of Flood Zone 2 and 3 as identified on the Environment Agency Flood Risk Maps. Notwithstanding this, the application is supported by a Flood Risk Assessment.
- 27.7 In terms of fluvial flooding, the site, and therefore the proposed development, would be wholly in Flood Zone 1. As such, the development has low risk of fluvial flooding. Furthermore, the access to the site is also located within Flood Zone 1 and would continue unimpeded to provide safe access to and from the residential developments in the event of a flood.
- 27.8 As the proposed development would lie within Flood Zone 1, neither the sequential test nor the exceptions test, as set out in the Governments guidance 'Flood risk assessment: the sequential test for applicants' 2017 needs to be carried out
- 27.9 With respect to pluvial flooding, the site does not fall within a Critical Drainage Area. Although the the site is currently developed and contains hard surfacing, the proposal would introduce a greater volume of hard surfacing, thereby increasing the impermeability of the site.
- 27.10 The geology of the site demonstrates that infiltration drainage techniques would not be suitable on the site and therefore an underground attenuation tank is proposed, with some runoff to be attenuated by the roof construction and permeable paving. The which is then released at a controlled rate into the existing nearby surface water public sewer network.
- 27.11 The Lead Local Flood Authority have confirmed that the drainage proposal satisfies the requirements of the NPPF 2021 and has recommended that should permission be granted, suitable conditions are required to secure the details of the design of the surface water drainage scheme and to ensure that it is properly implemented and maintained throughout the lifetime of the development.
- 27.12 As such, it is considered that the flood risk and surface water flooding have been addressed in accordance with Policy CS6 of the Core Strategy 2007, Policy DM19 of the Development Management Policies Document 2015 and the requirements of the NPPF 2021.

## **28 Land Contamination**

- 28.1 Paragraph 183 of the NPPF 2021 states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

- 28.2 Paragraph 184 of the NPPF 2021 continues where a site is affected by contamination issues, responsibility for securing a safe development rests with the developer and/or landowner in accordance with paragraph 179 of the NPPF 2021.
- 28.3 Policy DM17 of the Development Management Policies Document 2015 states [inter alia] that where it is considered that land may be affected by contamination, planning permission will only be granted if it is demonstrated that the developed site will be suitable for the proposed use without the risk from contaminants to people, buildings, services or the environment including the apparatus of statutory undertakers.
- 28.4 The site lies adjacent to a former sawmill. As such, the Council's Contaminated Land Officer has recommended contamination conditions, in the event permission is granted, in order to ensure that risks from land contamination to 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 off site receptors.
- 28.5 Subject to these conditions in the event permission is granted, the proposal is considered to accord with Policy DM17 (of the Development Management Policies Document (2015) and the requirements of the NPPF 2021.

## **29 Community Infrastructure Levy (CIL)**

- 29.1 The proposal will be CIL liable.

## **30 Planning Balance**

- 30.1 As the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 11 (d) of the NPPF 2021 is engaged as the policies which are most important for determining the application are out-of-date. There are no footnote 8 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied.
- 30.2 The presumption is therefore to grant permission for sustainable development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.

- 30.3 The proposed development would make a meaningful contribution towards delivering the Council's housing target and would therefore be consistent with the Framework and Council policy in so far as it seeks to significantly boost the supply of homes. This is a significant benefit of the scheme.
- 30.4 The proposal would create short term economic benefits during the construction period. Furthermore, the proposed development would create more long-term benefits to the local economy due to the increased spending in the area. This is a significant benefit of the scheme.
- 30.5 The provision of affordable housing in developments is afforded significant weight in the planning balance. However, the level of affordable housing proposed would not accord with the Council's policies in relation to affordable housing. In attributing weight in the planning balance, the provision of two affordable units is considered to be a minor benefit of the scheme. However, the absence of an appropriate mechanism to secure the affordable housing on site contribution would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.6 The proposal would accord with the Council's policies in relation to ecology, flood risk, surface flooding, land contamination and sustainability.
- 30.7 The conflict with Policies DM11, DM12 and DM13 of the of the Development Management Policies Document 2015 is attributed minor adverse weight given the Council's position set out in the report entitled "Making the Efficient Use of Land – Optimising Housing Delivery".
- 30.8 The conflict with Policy DM22 of the of the Development Management Policies Document 2015 is attributed minor adverse weight, as it is considered that the proposed housing mix reflects the optimum use of the site and provides for an identified housing need.
- 30.9 The shortfall of on-site car parking spaces would not be policy compliant. However, as a result of such a minimal 0.5 vehicle space shortfall, this policy conflict is therefore attributed minor adverse weight.
- 30.10 As a result of its overall scale and design, the proposed development would cause significant harm to the character and appearance of the area. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.

- 30.11 The proposed development would not meet the minimum space standards for residential accommodation and would not provide adequate outdoor private amenity space failing to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.12 The proposed development would cause significant harm to the private amenities of the occupiers of surrounding properties by way of off loss of light, loss of outlook and loss of privacy. This would represent an adverse material consideration to weigh in the planning balance against other considerations for this application.
- 30.13 Overall, the adverse impact on the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The application would therefore have been recommended for refusal

### 31 Recommendation

**That the Planning Inspectorate be informed that the Local Planning Authority would have REFUSED permission for the following reasons:**

1. In the absence of an appropriate legal agreement to secure the provision of affordable housing within the meaning of the NPPF, the proposal would fail to create a sustainable, inclusive and mixed community, contrary to Policy CS9 of the Core Strategy 2007 and paragraph 65 of the NPPF 2021.
2. As a result of its scale and intervening hard surfacing, the proposed development would represent an overdevelopment of the site that would conflict with the pattern of development in the locality and would give rise to an overbearing relationship with the adjacent buildings. Furthermore, as a result of its contrived design, the proposed development would be visually unattractive and an unsympathetic addition to the street scene, causing harm to the character and appearance of the area. In accordance with paragraph 134 of the NPPF 2021, the permission should be refused as it would be contrary to paragraph 130 of the NPPF 2021, Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007, Policies DM9 and DM10 of the Epsom and Ewell Development Management Policies 2015, the Epsom and Ewell Borough Council Character Study and the Epsom and Ewell Single Plot and other types of Residential Infill Development SPG 2003

3. The proposed development would fail to provide all future occupiers with adequate internal living conditions as a result of sub-standard quality of accommodation and would fail to provide all future occupiers with private outdoor amenity space. The proposed development would fail to deliver a high standard of amenity and resulting in inadequate living conditions to the detriment of future occupiers. As such, it is considered that the proposal would fail to comply with paragraph 130 of the National Planning Policy Framework 2021, Policy DM12 of the Development Management Policies Document 2015 and the Technical Housing Standards - Nationally Described Space Standards 2015.
4. The proposed development, as a result of its scale, design and proximity to boundaries, would result in an unacceptable loss of sunlight, day light, outlook privacy and would appear unduly overbearing to the extent that it would materially harm the amenities of the occupiers of surrounding neighbouring properties, contrary to Policy DM10 of the Development Management Policies Document 2015.