

Planning Committee
10 July 2024

Planning Application
Number: 24/00518/FLH

24/00518/FLH – 22D Highridge Close, Epsom, Surrey, KT18 5HF

Application Number	24/00518/FLH
Application Type	Householder
Address	22D Highridge Close, Epsom, Surrey, KT18 5HF
Ward	College
Proposal	Part two, part single storey side extension.
Expiry Date	12 June 2024
Recommendation	Approval, subject to conditions and informatives
Number of Submissions	Four
Reason for Committee	Called in by Member of the Council
Case Officer	Katie Smyth
Contact Officer	Simon Taylor, Interim Manager
Plans, Documents and Submissions	Available here
Glossary of Terms	Found at the following link: Glossary of Terms



SUMMARY

1. Summary and Recommendation

- 1.1. This application is before the committee as it was called in by Cllr Morris, regarding concerns around impact on neighbouring amenities and overbearing impact on neighbouring properties. This application is recommended for approval.
- 1.2. This is a proposal for a part single, part two storey side extension which would extend 3.5m beyond the host dwelling side elevation at ground floor level and 3m at first floor level. The proposed side extension would be set back 1.06m from the shared boundary line at ground level and 1.9m at first floor level. The proposal would have a pitched roof design and constructed out of materials to match the design of the host dwelling.
- 1.3. The dwelling is part of a larger development which obtained planning permission under reference 13/00575/FUL for the erection of three terraced dwellings and erection of six garages and six parking spaces following demolition of garages.
- 1.4. Four neighbour objection letters have been received raising concerns to the impact of the development on neighbour amenity, loss of light, loss of visual amenity, loss of outlook, impact on character, and contrary to local plan policies.
- 1.5. Amended plans were received on 21 June 2024 which reduced the width of the first-floor element of the proposed side extension increasing the separation distance from the shared side boundary line and altered the front facing windows to ensure consistency with the design of the host dwelling front elevation design.
- 1.6. The Council is satisfied that the impact of the development on design and appearance, neighbour amenity, parking, ecology, and landscape is acceptable. As such, the recommendation before the committee is that the application should be approved, subject to conditions.

PROPOSAL

2. Description of Proposal

- 2.1. The proposal involves the following works:
 - Part two, part single storey side extension.
- 2.2. The application was amended following the consultation period by altering the window proportion to the front elevation and setting the first floor back 0.5m from the side boundary. Both amendments were improvements to the scheme and did not warrant reconsultation.

3. Key Information

	Existing	Proposed
Site Area	300sqm	
Units	1	1
Floorspace	116m2	169m2
Car Parking Spaces	2	2

SITE

4. Description

- 4.1. The site comprises a two-storey end of terraced property located on the southern side of Highridge Close, a private cul-de-sac road in the built-up area of Epsom. The property is one of three dwellings which were built following permission being allowed through appeal following demolition of a block of garages.

5. Constraints

- Built Up Area
- SSSI Impact Risk Zone
- Adjacent to Burgh Heath Road Conservation Area
- Private Road
- Adjoins Public Right of Way (rear boundary)
- Flood Zone 1

6. History

App No.	Description	Status
14/01864/COND	Details pursuant to Conditions 3 (materials) and 6 (hard and soft landscaping) of 13/00575/FUL	Permitted
13/00575/FUL	Demolition of garages and erection of terrace of 3x3-bed houses, and demolition of garages and erection of new block of 6 garages and provision of 7 parking spaces.	Refused by Council. Allowed at Appeal
00/00382/FUL	Demolition of existing western garage block (10 no. garages) & erection of new block comprising 10 no. garages integrated with a new two storey dwelling attached to existing house.	Refused
99/00446/FUL	Replacement of existing garage blocks with two blocks of 10 garages and erection of two storey 4 bed dwelling (Amended plans to original application).	Refused

- 6.1. The original planning application for the three dwellings was refused by the Planning Committee (against the officer's recommendation for approval) in November 2013 for the following reasons:
- 1) Over development and lack of separation to the eastern boundary
 - 2) Loss of trees
 - 3) Impacts on highways safety arising from a lack of off street car parking
- 6.2. An appeal against the refusal (APP/P3610/A/14/2212594) was upheld on 9 May 2014. In broad terms, the Inspector did not agree with any of the three reasons for refusal. However, the decision was subject to Condition 5 which removed permitted development rights for Class A of Part 1 of the GPDO. Consideration of the appeal decision is included in the body of the report at Sections 11, 12 and 13.

CONSULTATIONS

Consultee	Comments
Internal Consultees	
Highway Authority	No objections – site is accessed via Highridge Close, a private road which does not form part of the public highway.
Ecology	No comments received.
Conservation	No objection.
Public Consultation	
Neighbours	<p>The application was advertised by means of notification letters to 11 neighbouring properties, concluding on 07 June 2024.</p> <p>4 submissions from at least two properties were received. They raised the following issues:</p> <ul style="list-style-type: none"> • Layout and Density. <p>Officer comment: The premise of this statement is unclear. The density of the scheme (3 dwellings) is unchanged and the layout, which comprises a side extension to an existing dwelling, is acceptable.</p> <ul style="list-style-type: none"> • Loss of security. <p>Officer comment: There is no foreseeable issue with the proposal in terms of any increased security risk. The extension is built off the boundary and boundary treatments are unchanged.</p> <ul style="list-style-type: none"> • Impact upon sunlight during winter months. • Intrusive and overbearing form

Consultee	Comments
	<ul style="list-style-type: none"> • Proposed roof and wall would sit closer to the back of the neighbouring dwellings to the south-east of the site. <p>Officer comment: Some increased overshadowing is likely but not unreasonable, as noted in the body of the report.</p> <ul style="list-style-type: none"> • Effect on listed buildings and conservation area. • Loss of sylvan and open quality of the Burgh Heath Road Conservation Area <p>Officer comment: The application site or adjoining properties are not listed. The site is not located within a conservation area though the eastern boundary adjoins the Burgh Heath Conservation Area. The proposal would not have an unacceptable impact upon the Conservation Area as advanced in the body of the report and with no objection from the conservation officer.</p> <ul style="list-style-type: none"> • The previous planning decision by the Council was to refuse based on over development and neighbour harm so if follows that something larger should also be unacceptable because of increased bulk and less separation. <p>Officer comment: The decision of the Planning Inspectorate in the original planning application (ie approval) is the material consideration on which this application is considered and not the original refusal issued by the Council. The merits of the extension are assessed with regard to the decision of the Planning Inspectorate.</p> <ul style="list-style-type: none"> • The bridleway would be negatively impacted, a view shared by the Planning Inspector <p>Officer comment: The bridleway extends along the rear boundary. The proposed extension would not extend beyond the existing rear building line and on this basis, no further issue is raised.</p> <ul style="list-style-type: none"> • Loss of visual amenity • Over development <p>Officer comment: The proposal maintains a suitable built form and appearance within the lot, the row of properties and the wider area, as discussed in the body of the report.</p>

7. Legislation and Regulations

- 7.1. Town and Country Planning Act 1990
- 7.2. Environment Act 2021

8. Planning Policy

8.1. National Planning Policy Framework 2023 (NPPF)

- Section 12: Achieving Well-Designed and Beautiful Places
- Section 15: Conserving and Enhancing the Natural Environment
- Section 16: Conserving and Enhancing the Historic Environment

8.2. Epsom and Ewell Core Strategy 2007 (CS)

- Policy CS1: Sustainable Development
- Policy CS3: Biodiversity and Designated Nature Conservation Areas
- Policy CS4: Open Spaces and Green Infrastructure
- Policy CS5: The Built Environment
- Policy CS16: Managing Transport and Travel

8.3. Epsom and Ewell Development Management Policies Document 2015 (DMPD)

- Policy DM4: Biodiversity and New Development
- Policy DM5: Trees and Landscape
- Policy DM7: Footpath, Cycle and Bridleway Network
- Policy DM8: Heritage Assets
- Policy DM9: Townscape Character and Local Distinctiveness
- Policy DM10: Design Requirements for New Developments
- Policy DM37: Parking Standards

9. Supporting Guidance

9.1. Supplementary Planning Documents and Guidance

- Householder Applications Guidance 2004
- Parking Standards for Residential Development Supplementary Planning Document 2015

PLANNING ASSESSMENT

10. Principle of Development

10.1. Location of Development

- 10.2. The site is located within the built-up area of Epsom and the principle of development is acceptable in terms of the principles, objectives, and policies in the CS, the DMPD and supporting guidance and documents.

11. Design and Character

- 11.1. Paragraphs 129, 135 and 139 of the NPPF 2023 refer to the need for functional and visually attractive development that is sympathetic to local character and history. Policy CS5 of the CS requires high quality design that is attractive, relates to local distinctiveness and complements the attractive characteristics of the area. Policy DM9 of the DMPD requires a positive contribution to and compatibility with the local character and the historic and natural environment and Policy DM10 requires good design that respects, maintains or enhances the prevailing house types and sizes, density, scale, layout, height, form and massing, plot width and building separation, building lines and key features.
- 11.2. The Householder SPG outlines that side extensions should:
- Not project forward of the front elevation.
 - Set the new front wall 1m back from the front wall to allow it to stand clear and lessen the terracing effect
 - Retain a 1m setback from the boundary for separation and to avoid terracing.
 - Include a pitched roof with a lower height.
 - Not be allowed where an open first floor side gap is important in maintaining street character.
- 11.3. Whilst the proposed part single, part two storey side extension would be readily visible from the streetscene along Highridge Close, it would not project any further than the front elevation of the host dwelling and would be set back from the side boundary line by 1.06m at ground level and 1.9m at first floor level to avoid any perception of a terracing effect in accordance with the Householders SPG. Whilst it is built to the front building line and not be setback behind the front wall, it sits behind and retains the impression of the projecting gable thus ensuring it is compatible with the existing character of the development.
- 11.4. The single storey part of the side extension has a modest parapet as presented to the front and side with a flat roof be at the rear of the host dwelling which minimises this element of the proposals bulk, scale, and mass. The single storey element towards the rear of the side would not be visible from the streetscene and is considered to integrate sufficiently with the design and character of the host dwelling.
- 11.5. The proposed side extension would be constructed out of materials to match the design of the host dwelling and would have a pitched roof design at first floor level which would sit slightly lower than the host dwelling roof ridge height to ensure the proposal does not over dominate or harm the character of the host dwelling. The new front facing windows would match the design of the existing host dwelling windows to ensure it would not result in undue harm to the character and appearance of the host dwelling nor the surrounding area.

- 11.6. The proposal would be acceptable in terms of its form, mass, scale, and design, as well as use of matching materials. The proposed development does not overwhelm the existing dwelling nor its plot.

12. Neighbour Amenity

- 12.1. Policy CS5 of the CS and Policy DM10 of the DMPD seeks to protect occupant and neighbour amenity, including in terms of privacy, outlook, sunlight/daylight, and noise whilst Paragraph 191 of the NPPF 2023 and Policy CS6 of the CS seek to mitigate and reduce noise impacts.
- 12.2. The Householder SPG also outlines the following in protecting neighbouring amenity:
- Ground floor side facing windows should be at least 1m from the boundary and not overlook adjoining windows.
 - There should be no side facing clear-glazed habitable windows at first floor level.
 - First floor balconies, roof terraces or full height windows should be avoided.
 - First floor rear facing windows should be at least 1.5m from the side boundary.
 - Flat roofs should not be used as balconies or terraces.
 - The side wall should be setback 1m from the side boundary
 - No part of the first floor should be within an angle of 45 degrees from the edge of the windows of adjoining properties, or from a point 2m in from the corners of those properties.
 - No part of the first floor should be within an angle of 25 degrees from the horizontal, taken at sill level.
- 12.3. The neighbouring properties potentially impacted by the proposal are Saddlers and Peartree Cottage to the south-east of the site respectively. No. 3 The Ridings to the rear of the application site; and Nos. 22A-C Highridge Close located to the north-west are too far removed to warrant further consideration.

Saddlers and Peartree Cottage

- 12.4. Saddlers and Peartree Cottage are located along Downs Road; the rear of these neighbouring properties shares the side boundary line to the south-east of the application site.
- 12.5. The Inspector in the 2013 appeal decision noted the following with respect to impacts on living conditions:
7. The proposed terrace would be located to the rear of the rear gardens of Saddlers and Pear Tree Cottage. Its roof ridge would be approximately one metre lower than that of these adjoining dwellings. The roof form closest to both Saddlers and Pear Tree Cottage would be such that the

ridge would align north south, further reducing the bulk of the building when viewed from the rear of these adjoining properties. Ground levels would be reduced so that the gardens of the proposed dwellings would be at a similar level to the existing adjoining properties.

8. Furthermore, the separation distances between the rears of Saddlers and Pear Tree Cottage and the east elevation of the proposed terrace would be in the region of 14.22m. Evidence submitted as part of both the application and the appeal demonstrates that such a separation distance combined with the proposed built form of the terrace would not be such as to require daylight and sunlight assessment studies to be carried out.

9. Given these aspects of the design, together with the fact that the nearest element of the two properties to the east, namely the rear extension to Pear Tree Cottage would face the rear gardens of the terrace and not the building itself, I am satisfied that the proposed development would not have an overbearing impact on the living conditions of Saddlers and Pear tree Cottage, or result in a harmful loss of outlook, from these two properties.

10. For these reasons I conclude that the proposed development would comply with Saved Policy DC1 of the Epsom and Ewell District-wide Local Plan 2000 (the Local Plan) which requires that new development not result in serious harm to the living conditions of adjoining properties.

- 12.6. The proposed part single, part two-storey side extension would be set back 1.09m at ground floor level and 1.9m at first-floor level. This would bring the building 3m closer to the rear elevation of the neighbouring properties, thus indicating that the subject property would be more prominent and result in a reduction in light and sunlight. However, the 1.9m setback at first floor level is more than is required in the SPG, including for the flank to rear relationship that is evident here.
- 12.7. The 25-degree line is a standard BRE measurement of daylight impact that is included in the SPG. In this case, it is measured from the top of the proposed extension to the rear elevation of Saddlers and Peartree Cottage at a standard sill level of 1m above ground level. The 25-degree line of the existing development did not impact the habitable spaces of these two properties and this is evident in the Inspector's statement at paragraph 8 that a sunlight and daylight assessment was not required.
- 12.8. The proposed extension will result in the 25-degree line intersecting the outdoor dining area of Saddlers but only by 0.5m with no other habitable spaces impacted. The outdoor terrace is a covered, partially enclosed space but would still benefit from partial habitable use unlike the outdoor garden space.
- 12.9. Having regard to its outdoor use, the very marginal impact, the exceedance with the side boundary setback requirement with the proposed extension and the substandard garden depth of Saddlers (it is

built 7m from the boundary where 10m is usually required, albeit because of the historic nature of the dwelling), it would be wholly unjustified to refuse the application on the grounds that the proposal appeared over bearing or resulted in a loss of light. Further, the proposed extension lies to the west of the east facing rear elevation of Saddlers and Peartree Cottage such that the impact would be limited to the late afternoon period which is much harder to protect. There would be some harm to the garden areas of both properties, but this is already the case within the existing development.

- 12.10. There is a proposed ground floor side facing window, which would be set back 1.06m from the shared boundary line in accordance with the Householders SPG. The existing level of the site compared to the neighbouring properties and the boundary fencing will ensure no overlooking or loss of privacy. Furthermore, it is acknowledged that no side facing windows are proposed at first floor level in accordance with guidance and a condition is proposed that no new windows are permitted under the GPDO. This would protect the privacy and prevent overlooking of the rear amenity space and elevation of Saddlers and Peartree Cottage, Downs Road.

13. Trees and Landscaping

- 13.1. Paragraph 136 of the NPPF 2023, Policy CS3 of the CS, Policy DM5 of the DMPD and the Householder SPG seek the retention, protection and enhancement of existing and new trees, hedgerows, and other landscape features, with removal of trees supported by sound justification and appropriate replacement planting of native species.
- 13.2. Paragraphs 11 and 12 of the 2013 appeal decision discusses tree removal and raises no objections, including in terms of any harm to the sylvan character of the area. The proposed extension will be built to the side of the dwelling in an area of hard and soft landscaping. No trees on the subject site or neighbouring properties will be adversely affected and there are no unacceptable landscaping issues with the proposal and no reason to reach a different conclusion to the Inspector.

14. Parking and Access

- 14.1. Policy DM37 of the DMPD and the Parking Standards for Residential Development SPD specify a minimum requirement for three parking spaces for a 4-bed dwelling. Parking spaces are to be 2.4m x 4.8m or 3m x 5.5m within a garage.
- 14.2. The application site benefits from two existing off-street vehicle parking spaces which will be maintained in accordance with the Parking Standards SPD and therefore no objections are raised regarding parking on site.

- 14.3. The application site is accessed via Highridge Close, which is a private road and does not form part of the public highway, therefore it falls outside the County Highway Authorities jurisdiction. The County Highway Authority has considered the wider impact of the proposed development and considers that it would not have a material impact on the safety and operation of the adjoining public highway.

15. Ecology and Biodiversity

- 15.1. Paragraphs 180 and 186 of the NPPF 2023, Policy CS3 of the CS and Policy DM4 of the DMPD require the conservation and enhancement of on-site biodiversity, with minimisation of impacts and the provision of mitigation measures. The duty of care extends to 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 and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.

- 15.2. The site is within a SSSI Impact Risk Zone Area. However, due to the minor nature of the proposal, as the site is in built-up area with low ecological status and as the works are to a recently constructed development, there is no foreseeable or likely harm to protected species and no objection raised. An informative is included to cease works if protected species are encountered during construction.

16. Flooding and Drainage

- 16.1. Paragraphs 165 and 173 of the NPPF 2023, Policy CS6 of the CS and Policy DM19 of the DMPD state that development at medium or high risk from flooding must ensure that there is no increase in flood risk, whether on or off site, and implementation of flood resilience and mitigation to reduce it to acceptable levels. It also seeks the implementation of sustainable urban drainage systems (SUDS).

- 16.2. The site is within Flood Zone 1 and not within a critical drainage area, where no flood risk or surface flooding issues exist. The proposed extension will occupy an area of hard and soft landscaping and given the modest nature of the extension, it is acceptable on flooding and drainage grounds.

17. Footpaths

- 17.1. Policy DM7 of the DMPD states that footpath, cycle, or bridleway networks should not be affected or improved where opportunities exist as part of new development. A public right of way extends along the rear boundary but the proposed extension does not extend any closer than the existing dwelling and thus no concerns are raised. A reading of the 2013 appeal decision indicates that the Inspector was not concerned with any impact either.

18. Accessibility and Equality

18.1. The Council is required to have regard to its obligations under the Equality Act 2010, including protected characteristics of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, or belief. There would be no significant adverse impacts because of the development.

19. Community Infrastructure Levy

19.1. The Community Infrastructure Levy Charging Schedule 2014 indicates that the application is not chargeable for CIL payments because the extension is less than 100m² in floor area.

RECOMMENDATION

To grant planning permission subject to the following conditions and informatives

Conditions

1) Timescale

The timescale hereby permitted shall be commenced within three years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2) Approved Plans

Unless otherwise agreed in writing by the local planning authority, the development hereby permitted shall be carried out in accordance with the plans numbered:

- 1) Location Plan; Drawing No. 001
- 2) Existing and Proposed Block Plan; Drawing No. 002
- 3) Proposed Ground Floor Plan; Drawing No. 020
- 4) Proposed First Floor Plan Rev A; Drawing No. 021
- 5) Proposed Roof Plan Rev A; Drawing No. 022
- 6) Proposed Front Elevation A Rev A; Drawing No. 023
- 7) Proposed Rear Elevation B Rev A; Drawing No. 024
- 8) Proposed Side Elevation C; Drawing No. 025

Received by the local planning authority on 06 May and 21 June 2024.

Reason: For avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans to comply with Policy CS5 of the Core Strategy 2007.

3) Materials

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall be of a similar appearance to those used in the existing building, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure a satisfactory external appearance in accordance with Policy CS5 of the Core Strategy 2007 and Policies DM9 and DM10 of the Development Management Policies Document 2015.

4) No Roof Gardens

The roof of the extension hereby permitted shall not be used as a terrace, balcony, or similar amenity area.

Reason: To safeguard the privacy of the occupants of adjoining properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

5) No First Floor Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order), no windows or other openings (other than those hereby approved) shall be formed in the side walls of the first floor of the extensions hereby approved without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities and privacy of the occupiers of the adjoining residential properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

INFORMATIVES

1) Positive and Proactive Discussion

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

2) Building Control

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works.

Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.

3) Working Hours

When undertaking building work, please be considerate to your neighbours and do not undertake work before 8am or after 6pm Monday to Friday, before 8am or after 1pm on a Saturday or at any time on Sundays or Bank Holidays. Furthermore, please ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.

You are advised that the Council does have formal powers to control noise and nuisance under The Control of Pollution Act 1974, the Clean Air Acts and other relevant legislation. For further information and advice, please contact - Environmental Health Department Pollution Section.

4) Party Wall Agreement

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to carry out work to an existing party wall; build on the boundary with a neighbouring property or in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet.

5) Protected Species

The applicant is reminded that it is an offence to disturb protected species under the Wildlife and Countryside Act 1981. Should a protected species be found during the works, the applicant should stop work and contact Natural England for further advice on 0845 600 3078.

6) Wheel Washing

The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning, or repairing highway surfaces and prosecutes persistent offenders (Highways Act 1980 Sections 131, 148, 149).

7) Damage to Highway

Section 59 of the Highways Act permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant/organisation responsible for the damage.

8) Safe Operation

The applicant is expected to ensure the safe operation of all construction traffic to prevent unnecessary disturbance obstruction and inconvenience to other highway users. Care should be taken to ensure that the waiting, parking, loading, and unloading of construction vehicles does not hinder the free flow of any carriageway, footway, bridleway, footpath, cycle route, right of way or private driveway or entrance. The developer is also expected to require their contractors to sign up to the "Considerate Constructors Scheme" Code of Practice, (www.ccscheme.org.uk) and to follow this throughout the period of construction within the site, and within adjacent areas such as on the adjoining public highway and other areas of public realm.