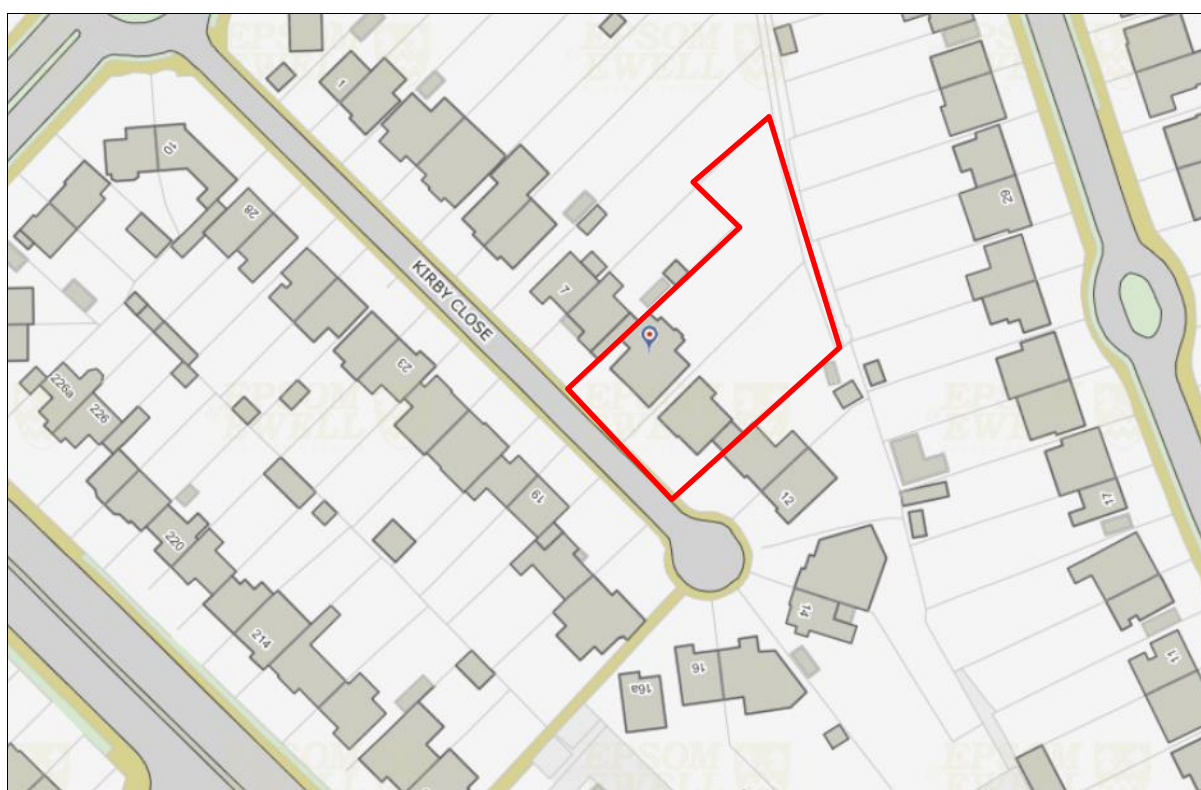


**24/00445/FUL - 9 And 10 Kirby Close, Ewell KT19 0PW**

|   |  |
|---|--|
| <b>Application Number</b>                                       | 24/00445/FUL   |
| <b>Application Type</b>   | Permission in Principle  |
| <b>Address</b>  | 9 and 10 Kirby Close, Ewell KT19 0PW   |
| <b>Ward</b>   | Auriol Ward  |
| <b>Proposal (as submitted)</b>                                  | Permission in Principle application for two semi-detached pairs of 4 x 3 bed dwellings with associated parking and landscaping following demolition of two existing detached bungalows |
| <b>Permission in Principle Proposal (as amended by Council)</b> | Permission in Principle application for the net increase of between one and two dwellings  |
| <b>Expiry Date</b>  | 19 July 2024   |
| <b>Recommendation</b>   | Approval, subject to guidance  |
| <b>Number of Submissions</b>                                    | 33   |
| <b>Reason for Committee</b>                                     | Called in by Member of the Council   |
| <b>Case Officer</b>   | Simon Taylor   |
| <b>Contact Officer</b>  | Justin Turvey, Head of Place   |
| <b>Plans, Documents and Submissions</b>                         | Available <a href="#">here</a>   |
| <b>Glossary of Terms</b>  | Found at the following link: <a href="#">Glossary of Terms</a>   |



## SUMMARY

### 1. Summary and Recommendation

- 1.1. The proposal relates to two plots towards the south eastern end of Kirby Close, each consisting of a detached bungalow. The proposal involves the demolition of the existing bungalows and their replacement with four semi-detached, two storey, 3 bed dwelling houses (a net increase of two dwellings).
- 1.2. The application has been submitted as a permission in principle application with this application being stage 1 of two stages. Considerations in Stage 1 are limited to whether the site is suitable in-principle. All other matters are for consideration at Stage 2.
- 1.3. A total of 33 objections were received, most relating to concerns of incompatibility with the pattern of development (two storeys would be out of character with the bungalows in the street), traffic and parking issues, neighbour amenity concerns and construction issues. All but the character impacts form part of Stage 2.
- 1.4. The application was called to Planning Committee by Cllr Beckett because of concerns of overdevelopment and being out of character.
- 1.5. The tilted balance is engaged in accordance with paragraph 11 of the NPPF and in this respect, the scheme is acceptable in a street that has a predominance of bungalows but with several two storey dwellings.  
**Approval is recommended.**

## PROPOSAL

### 2. Description of Proposal

- 2.1. The proposal involves the following works:
  - Demolition of the existing dwelling houses
  - Erection of four semi-detached, two storey, 3-bed dwelling houses
  - Parking for eight vehicles (two per dwelling), hard and soft landscaping, fencing and associated site works
- 2.2. The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed.

- 2.3. The scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these ‘in principle’ matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage. In addition, local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission.
- 2.4. Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development. Other statutory requirements may apply at this stage such as those relating to protected species or listed buildings. Technical details consent can be obtained following submission of a valid application to the local planning authority. An application for technical details consent must be in accordance with the permission in principle that is specified by the applicant.

### 3. Key Information

|                    | Existing  | Proposed   |
|--------------------|---|--|
| Site Area          | 1,400m <sup>2</sup> (800m <sup>2</sup> at 9 Kirby Close and 600m <sup>2</sup> at 10 Kirby Close)            |  |
| Units              | 2   | 4  |
| Floorspace         | Approximately 200m <sup>2</sup> (120m <sup>2</sup> at 9 Kirby Close and 80m <sup>2</sup> at 10 Kirby Close) | 516m <sup>2</sup> (104m <sup>2</sup> per dwelling) |
| Number of Storeys  | 1   | 2  |
| Density            | 14 dwellings per hectare  | 29 dwellings per hectare                           |
| Affordable Units   | 0   | 0  |
| Car Parking Spaces | At least 2 per dwelling   | 8 (2 per dwelling)                                 |

## SITE

### 4. Description

- 4.1. The subject site comprises two plots on the northern side of Kirby Close, near the head of the cul-de-sac. Occupying the sites are two undeveloped bungalows with driveways to the side. The surrounding area is predominantly bungalows but there are still several examples of two storey semi detached properties.

### 5. Constraints

- Built Up Area

- Tree Preservation Order (TPO302/G3) to rear boundary of 10 Kirby Close
- Site of Special Scientific Interest Risk Area
- Unclassified Road
- Flood Zone 1

## 6. History

| App No. | Description             | Status                   |
|---------|-------------------------|--------------------------|
| N/A     | Residential development | Approved<br>October 1949 |

## CONSULTATIONS

| Consultee                  | Comments  |
|----------------------------|---|
| <b>Internal Consultees</b> |   |
| Highway Authority          | No objection, subject to conditions.  |
| Trees                      | No comments received.   |
| Ecology                    | No comments received.   |
| <b>Public Consultation</b> |   |
| Neighbours                 | <p>The application was twice advertised by means of a site notice and notification, concluding on 05 June 2024. A total of 33 submissions were received from 29 properties in Kirby Close (14 submissions from 13 properties), Walsingham Gardens (eight submissions from six properties), Firwood Avenue (10 properties) and the Stoneleigh and Auriol Neighbourhood Forum.</p> <p>They raised the following issues:</p> <p><b>Character</b></p> <ul style="list-style-type: none"> <li>• Loss of open spaces</li> <li>• Loss of uniformity, distinctiveness and consistency in the row of bungalows</li> <li>• Building height does not accord with the bungalow height of neighbouring properties</li> <li>• Lack of building separation</li> <li>• Nonconformity with the rear building line at first floor level</li> <li>• The existence of higher buildings in a particular location does not justify a building of equivalent height (DM13)</li> <li>• Increase in density/over development</li> <li>• Terracing impact</li> <li>• Dwellings are too big for the plot that they occupy, primarily to meet space standards, and this indicates over development</li> </ul> |

| Consultee | Comments  |
|-----------|---|
|           | <ul style="list-style-type: none"> <li>• Permitted development rights would not apply as you cannot build an extra storey</li> </ul> <p><u>Officer comment:</u> Character impacts are a consideration for the permission in principle stage and are acceptable as noted in Section 11.</p> <p><b>Traffic/Parking</b></p> <ul style="list-style-type: none"> <li>• Pressure on on-street parking</li> <li>• Increased traffic congestion on a narrow road</li> <li>• Narrow width of the road already restricts emergency vehicles and refuse collections as well as access into driveways</li> <li>• Loss of on street parking arising from widened dropped kerb</li> <li>• Lack of on-site parking for four dwellings</li> <li>• Safety risk posed by additional traffic</li> </ul> <p><u>Officer comment:</u> These are primarily matters for the technical details stage. However, whilst the proposal would lead to the loss of on street parking in front of the two sites, but this does not form a valid reason for the refusal of the application. The level of traffic generation and parking and access arrangements has been assessed by the highways authority and no objection raised. Parking provision is also in accordance with policy.</p> <p><b>Neighbour Amenity</b></p> <ul style="list-style-type: none"> <li>• Increased neighbour impacts</li> <li>• Air source heat pumps are in a poor location</li> <li>• Intimidating location of side entrance door</li> <li>• Overlooking from rooflights</li> <li>• Loss of light and outlook</li> <li>• Increased occupancy and noise disturbance</li> </ul> <p><u>Officer comment:</u> Neighbour impacts are a matter for the technical details stage. However, the siting, height and orientation of the dwellings, are such that a development of this scale can be accommodated without adverse detriment to neighbour amenity.</p> <p><b>Construction</b></p> <ul style="list-style-type: none"> <li>• Lack of on street parking and street width for construction vehicles</li> <li>• Noise and disruption from construction phase</li> </ul> |

| Consultee | Comments  |
|-----------|---|
|           | <p><u>Officer comment:</u> Kirby Close has a width of 4.6m but the street and site access are adequate, and the scope of the works is appropriate such that it would not be unacceptable to oppose the development on construction grounds. Any future permission would be subject to a condition requiring further details in a Construction Transport Management Plan.</p> <p><b>Other</b></p> <ul style="list-style-type: none"> <li>• Flooding impacts from additional hardstanding</li> <li>• Sewer and electricity capacity is already limited</li> </ul> <p><u>Officer comment:</u> Flooding and drainage is a matter for the technical matters stage, but any future permission would be subject to a requirement for sustainable drainage to ensure on site infiltration and no net increase in flows from the site. Utilities would be subject to discussion with the relevant authorities.</p> <ul style="list-style-type: none"> <li>• Loss of smaller units</li> </ul> <p><u>Officer comment:</u> Unit mix is a matter for the technical matters stage, but the provision of 3 bed dwelling is not opposed in principle.</p> <ul style="list-style-type: none"> <li>• Sliding doors to the ground floor rooms would not meet fire rating</li> </ul> <p><u>Officer comment:</u> This is a matter for building regulations.</p> <ul style="list-style-type: none"> <li>• Usability of first floor bedrooms is compromised</li> <li>• Lack of space for side access</li> </ul> <p><u>Officer comment:</u> Whilst internal amenity is a matter for the technical matters stage, the functionality and amenity afforded for each dwelling appears acceptable. There is at least 1m wide side access and the first-floor bedrooms are afforded adequate light, outlook and ventilation.</p> <ul style="list-style-type: none"> <li>• Will create a precedent for overcrowding and streetscene</li> </ul> <p><u>Officer comment:</u> The development is acceptable in terms of density and character, as discussed in the body of the report. Any subsequent application would be considered on its own merits.</p> <ul style="list-style-type: none"> <li>• Children will not be able to play outside safely</li> </ul> <p><u>Officer comment:</u> The addition of two additional dwellings in the street would be unlikely to result in the cohesiveness of the</p> |

| Consultee             | Comments  |
|-----------------------|---|
|                       | <p>neighbourhood that comes with children playing within the cul-de-sac.</p> <ul style="list-style-type: none"> <li>• Covenant for Stoneleigh Hill Estate prevents over development</li> </ul> <p><u>Officer comment:</u> Covenants do not form a material planning consideration,</p> <ul style="list-style-type: none"> <li>• Loss of bungalows limits choice for disabled</li> </ul> <p><u>Officer comment:</u> This is a matter for the technical details stage. Even so, the dwellings can be adapted for disabled users.</p> <ul style="list-style-type: none"> <li>• Wildlife will be affected</li> </ul> <p><u>Officer comment:</u> As this is a permission in principle application, biodiversity measures, including biodiversity net gain, would be considered at the technical details stage.</p> |
| Ward Member           | The application was called in to Planning Committee by Cllr Beckett because of concerns of overdevelopment and being out of character.  |
| Residents Association | No comments were received.  |

## PLANNING LEGISLATION, POLICY, AND GUIDANCE

### 7. Legislation and Regulations

- 7.1. Town and Country Planning Act 1990
- 7.2. Environment Act 2021
- 7.3. Community Infrastructure Levy Regulations 2010
- 7.4. The Town and Country Planning (Permission in Principle) Order

### 8. Planning Policy

#### 8.1. National Planning Policy Framework 2023 (NPPF)

- Section 2: Achieving Sustainable Development
- Section 5: Delivering a Sufficient Supply of Homes
- Section 8: Promoting Healthy and Safe Communities
- Section 9: Promoting Sustainable Transport
- Section 12: Achieving Well-Designed and Beautiful Places
- Section 15: Conserving and Enhancing the Natural Environment

#### 8.2. Epsom and Ewell Core Strategy 2007 (CS)

- Policy CS1: Sustainable Development

- Policy CS5: The Built Environment
- Policy CS7: Housing Provision
- Policy CS8: Broad Location of Housing Development
- Policy CS16: Managing Transport and Travel

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

- Policy DM5: Trees and Landscape
- Policy DM9: Townscape Character and Local Distinctiveness
- Policy DM10: Design Requirements for New Developments
- Policy DM11: Housing Density
- Policy DM37: Parking Standards

**8.4. Revised Developer Contributions Supplementary Planning Document 2014**

- Part 1: Overview
- Part 2: Affordable Housing
- Part 3: Site-Specific Infrastructure Obligations

**8.5. Supplementary Planning Documents and Guidance**

- Single Plot and Other Types of Residential Infill 2003
- Parking Standards for Residential Development Supplementary Planning Document 2015

## PLANNING ASSESSMENT

### 9. Presumption in Favour of Sustainable Development

9.1. Paragraph 11 of the NPPF 2023 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.

9.2. Paragraph 11(d) of the NPPF 2023 is engaged where the Council's policies which are most important for determining the application are out-of-date. The practical application and consequence of this is that unless the site is 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 as a whole.

9.3. Currently, the Council does not have an up-to-date development plan on account of not being able to demonstrate a five-year supply of housing. Appeal decisions have indicated that the tilted balance applies to permission in principle applications and is the case with this application.

### 10. Principle of Development



**10.1. Built Up Area**

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

**10.3. Housing Delivery**

10.4. Paragraph 60 of the NPPF 2023 aims to significantly boost the supply of homes in areas where it is needed and addressing specific needs. Policy CS7 of the CS seeks to meet housing requirements in accordance with Policy H1 of the South East Plan which is at least 2,715 homes within the period 2007-2022 or 181 new dwellings per annum.

10.5. The Council has calculated its five-year housing land supply position as being 1.56 years. The Council is presently falling significantly short of this requirement and cannot presently demonstrate five years housing land supply. The net increase of two dwelling houses weighs in favour of the scheme.

**10.6. Development of a Residential Garden**

10.7. Policy DM16 of the DMPD indicates a presumption against the loss of rear gardens to maintain local character, amenity space, green infrastructure, and biodiversity, unless there is retention of green infrastructure for residents and wildlife and of neighbour amenity, avoidance of long access roads, development of a lesser scale and protection of trees, shrubs, and wildlife habitats. The proposal involves the demolition of the two existing dwellings and erection of four dwellings in their place. It would not involve backland development.

**10.8. Density**

10.9. Policy DM11 of the DMPD aims for the most efficient use of development sites with a demonstration of how density would contribute towards maintaining and enhancing the visual character and appearance of the wider townscape and lead to no net loss of biodiversity. Density is limited to 40 dwellings per hectare or alternatively, where it is allocated at a higher density, there is good site sustainability, and it conforms to the surrounding townscape.

10.10. The density of the development is 29 dwellings per hectare which is within the scope envisaged by Policy DM11. The predominant density of the area is 20 dwellings per hectare though this varies between 16 dwellings per hectare on the larger plots at the end of the cul-de-sac or northern side of Kirby Close and 30 dwellings per hectare in the more linear pattern of development that is evident on the southern side of Kirby Close.

10.11. The proposed density of four dwellings across the 1400m<sup>2</sup> plot is not unreasonable in this context. The two plots have a width of about 13m which is above the average of about 9m and this can facilitate a development that is sufficiently compatible with the character of the area (see Section 11) and without neighbour detriment (see Section 15).

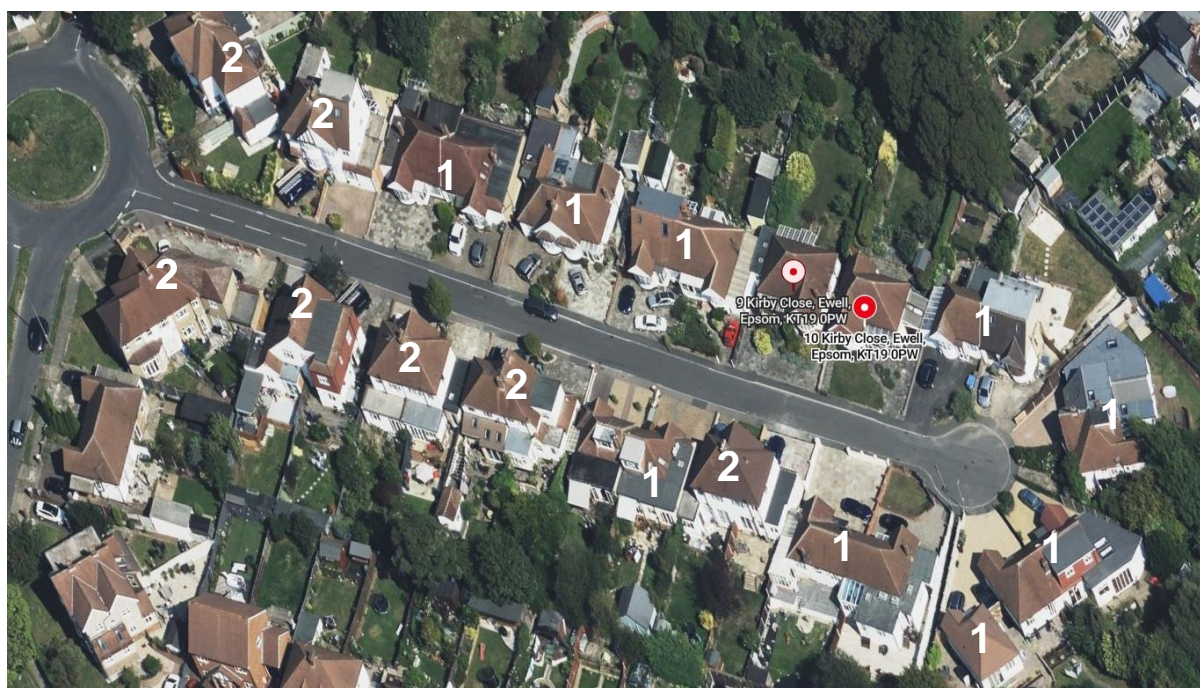
### 10.12. Site Sustainability

10.13. Paragraphs 112, 118 and 120 of the NPPF 2023 seek to ensure the growth of sustainable transport in managing development and approval of planning applications.

10.14. The site exhibits excellent site sustainability credentials, being less than 300m from regular bus services on Kingston Road, 750m from Stoneleigh Train Station and within walking distance of shops on Kingston Road and Stoneleigh Broadway. The proposal is therefore supportive of increased density on sustainability grounds.

## 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.



Height of properties in Kirby Close

11.2. The street is currently characterised by a mix of development - semi-detached dwellings make up 91% of the street (with 9% being detached) and bungalows make up 58% of the street (with 46% being two storeys). However, two storey buildings predominate the western end of Kirby Close closest to Firwood Drive and single storey buildings predominate the eastern end at the head of the cul-de-sac.

**11.3. Dwelling type**

11.4. The two properties forming the subject site are two of the three detached bungalows in Kirby Close. In their place will be two semi-detached buildings for a total of four units. The provision of a semi-detached property is wholly consistent with the predominant character of semi-detached properties in the street and no objection is raised.

**11.5. Height**

11.6. The creation of four two storey dwellings would result in 51% of the street being two storeys in height. On this basis alone, the establishment of two storey dwellings is not opposed. However, it is located at the eastern end of Kirby Close, where there is a higher concentration of bungalows.

11.7. A two-storey semi-detached property is located opposite the subject site. This creates a bookend of sorts. The subject site will not protrude into the head of the cul-de-sac where dwellings are more visible in the streetscene. For these reasons, the creation of a two storey development amongst other bungalows, is not unacceptable in principle.

**11.8. Building separation**

11.9. There is no consistency in building separation. Much of the openness of Kirby Close is evident at the eastern end where bungalows predominate. Elsewhere, garages extend to the boundary and two storey built form extends close to the side boundary. The proposal will allow for 2m on the outer boundaries and 1m between the two buildings. Whilst this forms the basis of the technical matters stage, it is evident that four dwellings can be accommodated on the site without disrupting the openness that is evident on Kirby Close.

**11.10. Footprint and Building Lines**

11.11. The subject site benefits from wider frontages. The footprint of the two buildings is 130m<sup>2</sup>, which is equal to or less than other properties in the street, and indeed, not out inconsistent with the surrounding area.

11.12. The submitted plans indicate broad consistency with the front building line. To the rear, there is some incursion with the immediate neighbours, but it is not sufficient to warrant concern.

### **11.13. Building and Plot Width**

11.14. The total plot width is 26.5m, indicating an average plot width of 6.6m. This would make the four dwellings the narrowest of all the plots in Kirby Close (excluding those at the head of the cul-de-sac) with the next narrowest being 20 Kirby Close at 7m. The resulting building widths would be 11m each which is also well below the average building width. The impression in the streetscene would not be appreciated but it still weighs in the overall balance.

### **11.15. Form and Appearance**

11.16. Form and appearance are a matter for technical consideration, but the building design comprises a pitched roof form with double bay windows presenting to the street. The dwellings at Plots 1 and 4 have side doors which is an effective design technique and is not opposed in principle. It indicates that a development that is broadly consistent with the streetscape can be achieved.

### **11.17. Conclusion**

11.18. The resulting built form, scale and appearance of development is broadly consistent with and not out of character with other development in the street. The only aspect of the development that weighs against being consistent is plot and building width but the extent of harm arising from this is limited in its nature.

## **12. Trees and Landscaping**

12.1. 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.

12.2. The rear of 10 Kirby Close is subject to Tree Preservation Order 302/G3, but the development is well removed from the trees such that there are no in-principle objections to the scheme.

12.3. Landscaping matters are a matter for the technical matters stage, but the scheme can be achieved with a suitable landscape scheme, including to the front of the site. Of note, Kirby Close is predominated by hard paved front gardens used for car parking and the proposed scheme is not out of character with this arrangement.

### **13. Quality of Accommodation**

- 13.1. The Nationally Described Space Standards 2015 sets out internal space standards for new dwellings at a defined level of occupancy – in this case, up to 102m<sup>2</sup> for a 3 bed, two storey development. The proposal includes a gross internal area of 104m<sup>2</sup>, which indicates that four dwellings can be achieved on the site.
- 13.2. Policy DM12 of the DMPD and the Householder SPG requires private outdoor space that is usable, functional, safe, and accessible with good access to sunlight and a minimum depth of 10m and area of 70m<sup>2</sup>. The plans indicate that a development of this density can be achieved whilst complying with outdoor amenity space requirements.

### **14. Affordable Housing**

- 14.1. Whilst affordable housing forms a matter for stage 2 consideration, there is no trigger for affordable housing.

### **15. Housing Mix**

- 15.1. Paragraph 63 of the NPPF 2023 states that the size, type, and tenure of housing needed for different groups in the community including families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes. Policy DM22 of the DMPD requires all residential development proposals for four or more units to comprise 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.
- 15.2. Housing mix is a matter for stage 2 consideration but the provision of larger family dwellings in this area, where other family dwellings exist, would not be opposed in principle.

### **16. Neighbour Amenity**

- 16.1. 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.
- 16.2. The siting and orientation of the dwellings will generally achieve an adequate degree of building separation and retention of sunlight and daylight to neighbouring properties and within the development itself. The plans indicate compliance with the 45-degree line to 8 and 11 Kirby Close and there is adequate separation distance of at least 18m to the rear boundary. Resident submissions have raised concern on the scale of the development leading to neighbour amenity concerns. These concerns are not shared on account of the density being appropriate for the plot and the

surrounding area. A resident submission has also raised objection to the entrance doors to Unit 1 and 4 being to the side of the dwelling which will result in pedestrian movement along the side of the property. Subject to appropriate boundary fencing, the level of privacy will remain acceptable.

- 16.3. Regardless, these are technical matters that are to be addressed at a later stage and there are no particular implications for the principle of the development.

## **17. Parking and Access**

- 17.1. Policy CS16 of the CS encourages an improved and integrated transport network and facilitates a shift of emphasis to non-car modes as a means of access to services and facilities. Development proposals should provide safe, convenient, and attractive accesses for all, be appropriate for the highways network, provide appropriate and effective parking provision, both on and off-site and ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.

### **17.2. Car Parking**

- 17.3. Policy DM37 of the DMPD and the Parking Standards for Residential Development SPD specify a minimum requirement for two parking spaces for a 3-bed dwelling. The proposal includes two parking spaces for each dwelling, which accords with policy. Resident submissions about a lack of onsite parking and resulting pressure on on-street parking are therefore unfounded.
- 17.4. There are adequate visibility splays and reversing manoeuvres onto Kirby Close are not opposed on account of low traffic levels within the cul-de-sac. Provision for pedestrian access is provided between the parking spaces. On these and other grounds, the Highways Authority have reviewed the proposal and raise no objection.
- 17.5. A larger number of submissions raised concern with the width of Kirby Close restricting vehicular movements for emergency and refuse vehicles and broader traffic movements. However, this is an existing situation and the provision of two additional dwellings would not result in a situation where access is unduly restricted.
- 17.6. Matters of EV charging and cycle storage remain a matter for stage 2 consideration. Construction matters are dealt with via a Construction Transport Management Plan and whilst resident submissions have raised concern with associated impacts on the immediate area, these are not valid reasons for refusing the application.

## **18. Ecology and Biodiversity**

- 18.1. 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.
- 18.2. The site is within a SSSI Impact Risk Zone Area. However, as the buildings will be sited broadly in the footprint of the existing dwellings in a built-up area with low ecological status, there is no foreseeable harm to protected species and no objection raised.
- 18.3. Government guidance has indicated that biodiversity net gain is subject to consideration at the technical details stage.

## **19. Flooding and Drainage**

- 19.1. 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.
- 19.2. The site is within Flood Zone 1 and is not within a critical drainage area. There is no in-principle objection to development of the site on flood risk and vulnerability grounds.
- 19.3. Paragraph 173 of the NPPF 2023, Policy CS6 of the CS 2007 and Policy DM19 of the DMPD seek the implementation of sustainable urban drainage systems (SUDS).
- 19.4. Numerous submissions were received in objection to the application on the grounds that the additional hardstanding would contribute to increased flooding issues. A development of this scale is required to be supported by eight car parking spaces which are provided at the front of the site where there is currently mostly soft landscaping. There would therefore be an increase in hard paving but subject to further drainage details at the technical matters stage (including but not limited to permeable paving and increased soft landscaping), there are no in-principle objections.

## **20. Contamination and Remediation**

- 20.1. There is no known contamination.

## **21. Accessibility and Equality**

- 21.1. Policy CS16 of the CS and Policy DM12 of the DMPD requires safe, convenient, and attractive access to be incorporated within the design of

the development. The proposal would not prejudice accessibility provision in terms of being adaptable for future users.

- 21.2. 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 adverse impacts because of the development.

## **22. Other Matters**

- 22.1. Matters of building sustainability, boundary treatments, waste storage and cycle storage are not considerations within the permission in principle application and are instead assessed as a technical matter.

## **23. Planning Obligations and Community Infrastructure Levy**

- 23.1. Policy CS12 of the CS and the Developer Contributions SPD require that development must be able to demonstrate that the service and community infrastructure necessary to serve the development is available, either through on-site provision or a financial contribution via a planning obligation.
- 23.2. The Community Infrastructure Levy Charging Schedule 2014 indicates that the application is Choose an item. for CIL payments because Choose an item. It is payable at £125/m<sup>2</sup> index linked.

## **CONCLUSION**

## **24. Planning Balance**

- 24.1. As the Council cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11(d) of the NPPF 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.
- 24.2. 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.
- 24.3. Section 2 of the NPPF has an underlying presumption in favour of sustainable development which is carried through to the Development Plan. Policy CS1 of the CS expects development to contribute positively to the social, economic, and environmental improvements in achieving



sustainable development whilst protecting and enhancing the natural and built environment.

#### **24.4. Economic Considerations**

24.5. 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 benefit is given moderate weight in the planning balance.

24.6. There are associated construction and employment benefits that would also attract minor weight.

#### **24.7. Social Considerations**

24.8. The dwellings are defined as family housing with provision for rear amenity space and this is supportive of policy for delivering such housing. This is attributed minor weight.

#### **24.9. Environmental Considerations**

24.10. The dwellings are located in a highly sustainable location. This adds to the moderate weight applied to the delivery of housing.

24.11. Resident concerns extend to a lack of building separation, over development and the height being inconsistent within the street. There is a degree of inconsistency in the street, but it is minor in its nature and the weight applied to this departure is minimal.

#### **24.12. Conclusion**

24.13. On these grounds, the minimal adverse effects of delivering the development (i.e., streetscape implications) would not significantly and demonstrably outweigh the benefits. On this basis, the application is recommended for approval.

24.14. Government guidance indicates that it is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type of development and amount of development. Local planning authorities can inform applicants about what they expect to see at the technical details consent stage. This information may include where further impact assessment is needed by the applicant or where a particular scheme of mitigation may be required. Applicants are encouraged to take account of this information when preparing a technical details consent application. Aside from maximising soft landscaping in the street frontage, the assessment has not identified any overriding concerns with the scheme.

## RECOMMENDATION

**To grant permission in principle, subject to the following:**

- 1) The permission in principle relates to land at 9 and 10 Kirby Close, Ewell KT19 0PW
- 2) The permission in principle is for the net increase of between one and two dwellings
- 3) The permission in principle is issued with the following guidance:
  - a) The development would need to ensure adequate soft landscaping at the street frontage commensurate with other properties in Kirby Close
  - b) Biodiversity net gain requirements will be mandatory
  - c) Sustainable drainage will need to be focal in the overall design