

EPSOM HOSPITAL SITE, DORKING ROAD, EPSOM, KT18 7EG

Proof of Evidence of Tim Spencer

on behalf of Senior Living Urban (Epsom)
Limited

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

LPA reference: 19/01722/FUL

Appeal references: APP/P3610/W/21/3272074 and
21/00252/FUL

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Contents

- 1.0 Qualifications and Experience
- 2.0 Introduction
- 3.0 Planning Policy Context
- 4.0 Planning Policy Compliance
- 5.0 Conditions and Planning Obligations
- 6.0 Summary and Conclusions

Annexures

Annexure A: Glossary of Terms

Appendices

- APP/01: Appeal A Decision Notice
- APP/02: Appeal B Decision Notice
- APP/03: Appeal A Committee Report
- APP/04: Appeal B Committee Report
- APP/05: Appeal A Minutes of Planning Committee Meeting
- APP/06: Appeal B Minutes of Planning Committee Meeting
- APP/07: Pre-app response 1
- APP/08: Pre-app response 2
- APP/09: Written Heritage Evidence of Ms Warren
- APP/10: Residential amenity illustrations
- APP/11: Carterwood Care Need Update
- APP/12: Housing Delivery Test Results 2020
- APP/13: Printed minutes Licensing and Planning Policy Committee

- APP/14: Local plan Issues and Options Consultation Document
- APP/15: Local Plan Issues Options Consultation - Outcomes (Report to Licensing and Planning Committee (25 Jan 2018)
- APP/16: ARCO report 'Planning for Retirement' (2020)
- APP/17: Jones Laing Lasalle: Retirement Living
- APP/18: Future of an Ageing Population- Government Office for Science (2016)
- APP/19: Original Scheme Economic Infographic
- APP/20: Revised Scheme Infographics and Economic Assessment Methodology

1.0 Qualifications and Experience

- 1.1 My name is Tim Spencer. I am an Associate Director at Nexus Planning with over 20 years' experience in the practice of Town and Country Planning. I hold a Degree in Town and Regional Planning, and a Diploma in Town and Regional Planning, from the Cape Peninsula University of Technology. I am a chartered member of the Royal Town Planning Institute.
- 1.2 Over the course of my career, I have worked on a wide range of retirement and care developments.
- 1.3 Nexus Planning has acted as the agent for the subject planning application(s), which were validated by the local planning authority (LPA) on 27 January 2020 (Appeal A) and 23 February 2021 (Appeal B). My involvement with the Proposed Development extends back to mid-2019 when we began a series of pre-application discussions with Epsom & Ewell Borough Council under a formal Planning Performance Agreement. These pre-application discussions were initially undertaken by QED Planning, where I was employed at the time, prior to QED merging with Nexus Planning. I am therefore familiar with the Planning Applications, the Appeal Site, and the surrounding area.
- 1.4 My evidence focusses on the planning policy and land use issues relating to the four reasons for refusal. In my evidence, I shall refer to a number of appendices, which are contained as separate documents or have been included with the Appeal Library as Core Documents.
- 1.5 My evidence draws upon the conclusions set out in the other proofs of evidence which have been prepared on behalf of the Appellant in this Appeal and I am familiar with the evidence that is provided. The additional evidence that I will rely upon deals with the matters below:-
 - Townscape evidence By Andy Williams of DEFINE
 - Design evidence prepared by Andrew Earwicker of Life3A Architects (formerly Marchese Partners)

- The evidence on the operational particulars and the nature of occupants of the Appeal Scheme prepared by Matthew Serginson of Guild Living.
- Written evidence in relation Heritage matters prepared by Helen Warren Donald Insall Associates, which is appended to this Proof of Evidence.
- Written evidence in relation to the need for Housing with Care prepared by Jessamy Venables of Carterwood Ltd, which is appended to this Proof of Evidence.

1.6 My evidence will set out the details of the relevant planning policies, how the policies relate to the Appeals, the weight that the applicable policies carry, other material considerations, and the significant public benefits of the Proposed Development.

1.7 I confirm that the evidence, which I have prepared and provide for this Inquiry in this proof, is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.0 Introduction

Background

2.1 This proof of evidence relates to two Appeals, which will be referred to hereunder as Appeal A and Appeal B or the Appeals. The evidence relates to Decision A of Epsom & Ewell Borough Council ('the Council' or 'the LPA') to refuse planning permission on 23 November 2020 in respect of Appeal A and Decision B of the Council on 6 May 2021 to refuse permission in respect of Appeal B.

2.2 During the course of Appeal A amended details, referred to hereunder as the Wheatcroft Amendments, were submitted to the Planning Inspectorate to narrow the areas of disagreement between the parties, the updated description of development in relation to Appeal A, which reflects the amended plans and corrections to use class references where necessary, is as follows

"Demolition of the existing hospital buildings, accommodation block and associated structures and redevelopment of the site to provide a new care community for older people arranged in two buildings, comprising 301 care residences, 10 care apartments and 28 care suites providing transitional care, together with ancillary communal and support services Use Class C2, 24 key worker units Use Class C3, childrens' nursery Use Class E as well as associated back of house and service areas, car and cycle parking, altered vehicular and pedestrian access, landscaping, private amenity space and public open space."

2.3 The description of the development of Appeal B is as follows:

Demolition of the existing hospital buildings, accommodation block and associated structures and redevelopment of the site to provide a new care community for older people arranged in two buildings, comprising 267 care residences, 10 care apartments and 28 care suites providing transitional care, together with ancillary communal and support services Use Class C2, 24 key worker units Use Class C3, childrens nursery Use Class E, as well as associated back of house and service areas, car and cycle parking, altered vehicular and pedestrian access, landscaping, private amenity space and public open space.

2.4 The Appeal Site is situated on land formerly comprising part of the Epsom General Hospital, Dorking Road, Epsom, Surrey, KT18 7EG, and falls to the south of the retained hospital site. The Appeal Site fronts onto Woodcote Green Road.

Scope and Purpose of this Proof of Evidence

The LPA refused planning permission (both 19/01722/FUL and 21/00252/FUL) for the Proposed Development on the basis of four, substantially identical reasons, as follows:

1. The proposed development by reason of its height, mass, scale and design would adversely impact and harm the character and appearance of the area (including the built environment and landscape setting), failing to comply with Policy CS5 of the Core Strategy (2007), Policies DM9, DM10 and DM11 of the Development Management Policies Document (2015) and paragraphs 122 and 127 of the NPPF (2019)
2. The siting of the development leaves insufficient landscaping opportunities to the frontage of Woodcote Green Road and along the south-western boundary with neighbouring residential property to mitigate the impact of the proposed development, presenting an over-developed and hard edge to the appearance to the development, which would cause harm to the character and appearance of the area. Causing harm to the character and appearance of the area fails to comply with Policy DM5 of the Development Management Policies Document (2015) and the NPPF (2019).
3. The proposed development by reason of its height, massing and design would adversely impact on the neighbouring amenities of the occupiers at 40 and 46 Woodcote Green Road, by means of overbearing, loss of privacy and loss of outlook, failing to comply with Policy DM10 of the Development Management Policies Document (2015)
4. In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure an affordable housing contribution, the applicant has failed to comply with Policy CS9

(Affordable Housing and meeting Housing Needs) of the Core Strategy (2007) and [guidance contained under] the NPPF (2019)

- 2.5 The wording in relation to the Fourth Reason for Refusal set out in Decision B differs to that of Decision A in respect of the words "*guidance contained under*" (the NPPF) which were included in the Decision B.
- 2.6 The Statement of Common Ground (SoCG) confirms that the Appeal Schemes are capable of complying with Policy CS9 (Affordable Housing) subject to the affordable housing provisions being secured in the legal agreement (S106 Agreement).
- 2.7 This proof of evidence will consider the planning policy position relating to Development Proposals with specific reference to the Development Plan policies cited in the Council's Decision Notices as the basis for the decision. Where there is a material difference in the Appeal Schemes, these is considered within my proof. This proof of evidence will also refer to the status of the Development Plan and the policies which are most important for determining the application, evidence of the LPA's record of housing delivery, other precedent developments and planning decisions as appropriate to the specific issues raised.
- 2.8 It is considered that there are some areas where the Proposed Development, in differing degrees in respect of Scheme A and Scheme B, are inconsistent with policy, specifically in respect of policy DM13 (Building Heights) and parts of DM10 (relating to density and amenity). Appeal A (not Scheme B) does not comply fully with DM9 (Townscape Character and Local Distinctiveness. While the density of the Proposed Development exceeds the maximum density set out within Policy DM11 (Housing Density) for most housing developments, the Schemes are considered to comply with DM11 as this policy allows for higher density development in well-located areas.
- 2.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that a determination is to be made in accordance with the Development Plan unless material considerations indicate otherwise. It is my opinion; the Appeal Schemes

are in general accordance with the development plan when read as a whole. Where there are areas where the Appeal Schemes diverges from development plan policies, these policy departures are justified and do not warrant the refusal of planning permission, when the development plan as a whole, and other material considerations are taken into account. This was also the view of the Council's officers who assessed the Planning Applications and recommended, on two occasions, that permission be granted for the Appeal Schemes.

2.10 It is my opinion that the Appeal Schemes deliver significant benefits, in particular; delivering a substantial number of homes to alleviate the Council's significant housing shortage, meeting the need for specialist accommodation and regenerating a brownfield site, these and other benefits are set out in paragraphs 4.79 to 4.132 of this proof. It is noted that the Appeal Schemes deliver slightly different benefits, and where relevant this is highlighted.

2.11 It is my view that the schemes represent good design and will make a positive contribution to the visual character and appearance of the area, further evidence in this regard is provided by Mr Williams and Mr Earwicker. Mr Williams confirms that the Appeal Schemes "incorporate principles of good design". Mr Williams notes that although some adverse townscape and visual effects are identified in respect of Appeal A, which are considered to result in some policy conflict with DM9, the scheme virtues are aligned with Policy DM9 and DM10. Mr Williams further notes that the schemes are consistent with national policy insofar as they optimise the use of land and are sympathetic to the character of the area.

2.12 The LPA's Statement of Case now cites, in addition to the impacts identified in the Decision Notices and the committee minutes, on 40 and 46 Woodcote Green Road that the Appeal Schemes will also have an overbearing impact on properties at 14 to 28 Digdens Rise and 7 Hylands Road, and that there will be a significant change in the easterly outlook from the properties to the west of the site.

2.13 It is noted that the Decision Notices specifically cite an impact on 40 and 46 Woodcote Green Road and none of the properties in Digdens Rise or Hylands Road are identified as being affected in either of the Decision Notices. The LPA officers

identified no such impact during the pre-application process, nor in the committee reports in respect of the Planning Applications. The minutes of the Planning Committee meetings (APP/05 and APP/06) shows that the Planning Committee did not identify an impact on 14 to 28 Digdens Rise or 7 Hylands Road and only identified amenity impacts in respect of 40 and 46 Woodcote Green Road.

2.14 It is my opinion that the design of the Appeal Schemes has had paid careful regard to the residential amenity of the neighbouring properties, including those set out in paragraph 2.13 above. It is acknowledged that some amenity effects may be experienced to a small number of immediately adjacent properties. The Appellant has mitigated these through the design process and the changes to the Original Scheme, delivered through the details of Scheme B and the Wheatcroft Amendments. The significant benefits which are delivered by the Schemes are considered to weigh strongly in favour of the Schemes and the effect on the amenities of neighbours is not considered sufficiently adverse to lead the refusal of planning permission.

2.15 The Appeal Site is situated within the setting of the Chalk Lane Conservation Area, which is located some 170 metres away, as well as a number of listed buildings.

2.16 The LPA has identified potential effects on the Woodcote and Salt Lane¹ Conservation Areas and the following listed buildings.

- Woodcote End House (Grade II*)
- Service Block to Woodcote End House (Grade II)
- 9 & 11 Woodcote Road (Grade II)
- 10 Woodcote Rd (Grade II)
- Woodcote Villa (Grade II)
- Westgate House (Grade II*)
- Woodcote Green House (Grade II*)
- The White Horse PH (Grade II)

¹ It is believed that the LPA intended to make reference to the Chalk Lane Conservation area

- The Hylands (Grade II*)
- 67-69 Dorking Road (Grade II)
- 71 Dorking Road (Grade II)

2.17 The HTIVA submitted with the Applications (Appeal A: CD 1.2.14 and Appeal B:CD 2.2.21) identifies some effect on the Chalk Lane Conservation Area, and the underlined listed buildings referred to under paragraph 2.16. These are dealt with in the Appellant's HTIVAs and the written evidence prepared by Ms Warren attached to my proof as Appendix APP/09.

2.18 The HTIVAs and written evidence prepared by Ms Warren confirms the Appellant's position that there is no effect on the heritage assets identified by the Council, with the exception of those highlighted in paragraph 2.16. It is the Appellant's position, explained in the HTIVAs, that there is no effect on the Woodcote Conservation Area. It is noted that there is no reference in the Council's Conservation Area appraisals of a Salt Lane Conservation area.

2.19 The HTIVAs and evidence of Ms Warren identify some degree of less than substantial harm, to a small number of heritage assets as a result of the Appeal Schemes, which falls at the low-level to negligible end of the spectrum. The substantial public benefits of the Appeal Schemes significantly outweigh the low to negligible level of harm to the identified heritage assets. The planning committee, who having considered the matter, did not cite harm to heritage assets or determine that the application on the basis that the benefits of the scheme did not outweigh the level of harm to identified heritage assets.

2.20 Very significant weight is to be afforded to the benefits which will be delivered made by the Appeal Scheme towards;

- The delivery of housing in the Borough;
- Meeting the need for older person's accommodation;
- Making efficient use of previously developed land;

2.21 The scheme also delivers a number of benefits which together carry substantial weight in the consideration of the application, including:

- The delivery of affordable housing;
- The provision of the nursery and synergy with the hospital site;
- The economic and employment benefits;
- The improvement of the townscape;
- The creation of new, high quality public realm;
- Ecological enhancements.

2.22 The full range of planning benefits are set out in section 4 of my proof of evidence. Paragraphs 9.20 of the reports to the Planning Committee also list the public benefits, which Council officers reported to the planning committee, which were no disputed by the committee.

2.23 The SoCG confirms that the principle of the redevelopment and the proposed use of the Appeal Site for housing with care community are appropriate, subject to a S106 Agreement and planning conditions. The SOCG confirms that the Appeal Scheme falls within Use Class C2, subject to occupancy and care requirements being secured by planning obligation.

2.24 Changes to the proposed details of Appeal A (19/01722/FUL), by way of the Wheatcroft Amendments, have provided further mitigation of the main impacts of the scheme which have been identified in the Council's statement of case, including effects on character of the area, overdevelopment and scale of landscaping and the impact on the amenity of the neighbouring properties.

2.25 The Wheatcroft Amendments have flowed from the updated Application B (21/00252/FUL), which were discussed with the LPA and presented to the Planning Committee prior to the submission of Application B.

2.26 It is my opinion that the development plan, considered as a whole, provides general policy support for the Appeal Schemes, taking all other material considerations into account. My position is reached having considered that; the Appeal Schemes exceed the height limit set out in policy DM13, that there is an

element of inconsistency with DM9 arising from some limited harmful townscape and visual effects identified in respect of Appeal A, as well as some harm identified to heritage assets (DM8) and some inconsistency with elements of policy DM10.

2.27 It is my opinion that the LPA has erred in their consideration of the Schemes in terms of its design and appearance and the resultant impact on the character and appearance of the area, including the built environment and landscape setting. It is my opinion that the LPA has placed disproportionate weight on the amenity impacts of the Appeal Schemes.

2.28 It is my opinion that the LPA has failed to afford due weight to the existing landscape and site condition, and townscape quality of the Appeal Site and has not given due weight to the significant landscape and related ecological enhancements which will be delivered by the Appeal Scheme. Furthermore it is my view that the LPA and has erred in reaching the conclusion that Appeal B does not allow sufficient landscaping opportunities along the frontage of Woodcote Green Road. The Wheatcroft Amendments, which increase setbacks and the landscaping along Woodcote Green Road, now introduce significant enhanced landscaping. It is my view that the Appeal Schemes fully accord with DM5 and represents a significant enhancement of landscaping and tree planting.

2.29 It is my opinion that the LPA has not afforded due weight to the substantial benefits of the Schemes in the determination of the Planning Applications. The Committee Reports did not accurately set out the full scheme benefits and did not properly describe the weight to be afforded to the benefits. It is my opinion that the planning committee, in reaching their decision, did not attribute due weight to the substantial housing benefits of the Appeal Schemes. The various benefits including; housing delivery, meeting the unmet need for housing with care (C2 accommodation), providing affordable housing (including affordable key worker accommodation), delivering high quality new public realm, and the numerous

other wider benefits arising from the Appeal Scheme have also not been properly taken into account by the decision maker.

2.30 The main issues that I will consider within my proof are;

- General accordance of the Appeal Schemes with the development plan;
- How the 'tilted balance', which is engaged by virtue of paragraph 11(d) of the NPPF, should be applied
- The benefits of delivering housing in the borough;
- The critical shortage of housing supply and the dire state of housing delivery in the borough;
- The current need, and the benefits of providing housing with care;
- How the development of the Appeal Site for housing with care benefits general housing delivery in the borough;
- The benefits of securing affordable housing on the Appeal Site;
- How the height, scale and massing of the Appeal Schemes are appropriate;
- The high design quality of the Appeal Schemes;
- That the Appeal Schemes provide a significant increase in tree planting, landscaping and ecological and biodiversity enhancements;
- How the layout of the Appeal Schemes allow for sufficient and enhanced landscaping across the site in general, but particularly along Woodcote Green Road and the western site boundary;
- How the Appeal Schemes represents an efficient use of previously developed land;
- How the Appeal Schemes have been suitably designed to protect the amenity of neighbouring residents;
- The extent to which the public benefits of the Schemes weigh positively in the planning balance in relation to heritage effects.

2.31 In considering these matters I will demonstrate that, in my opinion, planning permission for the Appeals should be granted, having regard to the applicable

policies of the Development Plan, the policies of the NPPF, and other material considerations.

Pre-application Process and Consultation

2.32 The Appellant engaged in extensive and wide-ranging pre-application discussions with the LPA's planning, design and heritage officers and made a number of presentations to the Planning Committee prior to the determination of the Planning Applications, copies of the pre-app responses are attached as Appendices (Pre-App Response 1:APP/07 and Pre-App Response 2:APP/08).

2.33 The Appellant also undertook extensive consultation with the community. The consultation process, and the extent of the changes made to the scheme prior to the submission of the applications, to address the comments received throughout the pre-application process, and following determination of application 19/01722/FUL, are described in the Design and Access Statements (Appeal A: CD 1.3.10 and Appeal B: CD2.2.10), Statements of Community Involvement (Appeal A: CD1.3.19 and Appeal B: CD2.2.26) and Planning Statements (Appeal A: CD 1.3.18 and Appeal B: CD2.2.23).

The Appeal Site

2.34 The full description of the Appeal Site, the planning history, a description of the surrounding area and the details of the development proposals are set out in the supporting documents submitting along with the planning application, including the Planning Statement, the Design and Access Statement, the Appellant's Statements of Case (Appeal A: CD 8.1 and Appeal B: CD 8.2), the Statement of Common Ground (CD 8.5) and the Heritage-Townscape Visual Impact Assessment (Appeal A: CD 1.2.14 and Appeal B:CD 2.2.21).

The Proposed Development

2.35 The Appeal Schemes are described in full within the agreed SoCG with further details provided in the evidence of Mr Serginson of Guild Living.

2.36 In summary Appeal Scheme A comprises the following:

- Up to 301 Guild Living Residences (Use Class C2) (a reduction of 5 units following the Wheatcroft Amendments to the Appeal Scheme);
- Up to 38 Care Residences (10) and Care Suites (38) (Use Class C2);
- Communal, care and wellbeing facilities including a restaurant, café/bar, occupational therapy/wellness centre, gym, library, craft room, therapy and treatment rooms (Use Class C2). These will be foremost for the use of residents, but will also be made available to the public.
- Furthermore, resident-only facilities will be provided including Lounge; Multi-function space; Cinema; and roof gardens.
- Associated support facilities including staff offices, welfare and training spaces, storage, laundry, kitchen, cycle storage, plant areas and parking. (Use Class C2)
- 24 no. affordable key worker/staff accommodation apartments (Use Class C3).
- Children's nursery of 157 sqm (Use Class E).
- Associated back of house and service areas, car and cycle parking, extensive landscaping and planting.
- An extensive landscaping scheme incorporating publicly accessible connections through the site to the Epsom Hospital and the creation of new public plaza areas.

Wheatcroft Amendments to the Appeal Scheme A

- 2.37 Several amendments to the Appeal Scheme A proposals have been made which have been introduced to narrow the areas of disagreement between the parties. The changes are set out below:
- 2.38 **Increased setback of Buildings A and B:** The setbacks of the proposed frontage buildings have been increased significantly from Woodcote Green Road. The west building has been repositioned to align with the street setbacks of the buildings to the west of the Appeal Site, and are now similar to the previous street setback of Woodcote Lodge. The street setback for the east building has also been increased and the western edge of east building has incorporated a step to create a more successful relationship with the west building.
- 2.39 The increased setbacks create additional opportunities for increased landscaping along the frontage and the provision of enhanced public realm, including an improved footpath and seating areas. The increased setbacks and alignment with the prevailing street frontages serves to create a well-designed streetscape, enabling the scheme to relate positively to the existing streetscape and townscape character. The increased setbacks also serve to reduce the visual and townscape effects of the scheme, reducing the apparent scale and massing of the buildings on Woodcote Green Road and the Millennium Green and nearby sensitive receptors.
- 2.40 The increased setbacks of the west building, which aligns with 40, 42 and 44 Woodcote Green Road to the west of the Appeal Site, also avoid direct overlooking of the front garden of the adjacent properties.
- 2.41 It should be noted that Appeal B reflects the updated street setback position of Appeal A.
- 2.42 **West building measures to reduce privacy impacts:** Changes have been made to parts of the west facing elevation of the west building to introduce a “saw-tooth” arrangement of the elevation. This change serves to reorientate the west facing windows adjacent to numbers 40 and 46 Woodcote Green Road to north

and south facing (i.e. towards the Woodcote Millennium Green and towards the new elements of the Appeal Scheme). In order to ensure that the proposed units in the Appeal Scheme receive suitable levels of natural light, high-level west facing windows have been retained, these will however not allow overlooking of 40 and 46 Woodcote Green Road.

2.43 The saw-tooth design has not been employed for all areas of the elevations of the west building which are adjacent to the residential areas to the west of the Appeal Site, where setback distances of more than 21 metres have been achieved, the saw-tooth design has not been considered necessary to mitigate impacts on privacy.

2.44 Scheme B provides an equivalent western elevation treatment (saw-tooth design and high-level windows) adjacent to 40 and 46 Woodcote Green Road, as the measures which have been introduced through the Wheatcroft Amendments to Appeal A to mitigate the effects on privacy.

2.45 Landscape changes:

2.46 Additional landscaping to the site frontage is enabled as a result of the significantly increased building setbacks. The increased setbacks allow for enhanced landscaping to the front of the site, along Woodcote Green Road, with the planting of significantly more trees (from 9 proposed in the Original Scheme to 25 in Scheme B and the Wheatcroft changes). A larger area of public realm is also created to the front of the site, which includes new seating areas, a new pathway and double avenue of tree, which relates positively to the Millennium Green to the south.

2.47 Along the western boundary of the site, the row of perpendicular parking has been reconfigured to parallel parking to create a wider landscaped buffer with significant additional tree planting along the boundary, to reduce the amount of parking along this edge and to increase the vegetative buffer screen.

- 2.48 The Sensory Garden at the podium level of the western building has been amended to reduce the potential for overlooking, by restricting proximal access to the edge of the sensory garden.
- 2.49 The changes to the landscaping scheme set out above have also been carried through into the Appeal B proposals.
- 2.50 **Materials changes (cladding colour):** the overall design and appearance of the scheme has been altered to increase the amount of brick used in the elevations and to reduce the amount of metal cladding. Furthermore the proposed material palette has been updated to more closely reflect local materials and colour tones, in particular the darker anthracite coloured metal cladding previously proposed is proposed to be altered to a lighter bronze colour, which is more sympathetic to the colours of the local roofs but is also a warmer more inviting tone and is less visually dominant.
- 2.51 The changes to the materials proposed through the Wheatcroft Amendments were proposed in Planning Application B and are now incorporated in both Appeals.

Appeal B

- 2.52 Following the refusal of Appeal A in November 2020, the Appellant prepared an updated scheme, which sought to address the Planning Committee's reasons for refusal. The updated Scheme B was submitted in January 2021. Several of the updated details, have been incorporated into the Appeal A Wheatcroft Amendments which are set out in paragraphs 2.38 to 2.50 above.
- 2.53 In addition to the updated details set out in paragraphs 2.38 to 2.50 above, which are common to both Appeal Schemes, Scheme B also reduces the height of all of the proposed buildings. The most significant change is the reduction of the height of the two taller elements of the east and west blocks by some 6 metres, equivalent to a two storey reduction. The reduction in height has been achieved by removing the uppermost level of accommodation, optimising the construction

build-up (by reducing floor to ceiling heights, slab thickness and service runs) and making minor changes to the ground levels.

2.54 In addition to the reduction in the height of the two tallest elements of the scheme, the height of the frontage building on the western side of the site has been reduced by around 5 metres through the removal of the upper storey fronting Woodcote Green Road, as well as optimising the construction build-up and ground levels.

2.55 Overall, the optimisation of the construction build-up has reduced the height of all the buildings on the site, compared to Scheme A, by between 1.7 and 6 metres, details of these changes are set out on pages 80 to 87 of Planning Application B's Design and Access Statement (CD 2.2.10).

2.56 The overall massing and scale of the proposed buildings for Scheme B has been decreased substantially by reducing the number of units by 34, by lowering the height of all buildings and increasing the setbacks from Woodcote Green Road.

2.57 In summary Appeal Scheme B comprises the following:

- 267 Guild Living Residences (Use Class C2).
- Up to 38 Care Residences (10) and Care Suites (38) (Use Class C2);
- Communal, care and wellbeing facilities including a Reception area; Restaurant; Café; Wellness centre including gym, swimming pool, hydrotherapy pool, consultation & treatment rooms, changing & shower facilities (Use Class C2). These ancillary facilities will be for the use of residents, but will also be made available to the public.
- Furthermore, resident-only facilities will be provided including Lounge; Multi-function space; Cinema; and roof gardens.
- Associated support facilities including staff offices, welfare and training spaces, storage, laundry, kitchen, cycle storage, plant areas and parking.
- 24 no. key worker/staff accommodation apartments (Use Class C3).
- Children's nursery of 157 sqm (Use Class E).
- Associated back of house and service areas, car and cycle parking, extensive landscaping and planting.

- An extensive landscaping scheme incorporating publicly accessible connections through the Appeal Site to the Epsom Hospital, and the creation of new public plaza areas.

Planning Statement of Common Ground

2.58 The Council and the Appellant have worked together and have prepared a Statement of Common Ground (SoCG), which has been referred to within this proof of evidence where relevant.

Use Class

2.59 The Appeal Scheme represents a mixed-use development. As agreed in SoCG the housing with care element of the scheme falls within Use Class C2 (subject to the conclusion of a suitable legal agreement), the affordable Key Worker accommodation falls within Use Class C3, while the children's nursery and shop falls within Use Class E.

3.0 Planning Policy Context

Introduction

- 3.1 The draft SoCG sets out the relevant planning policies cited in the LPA's Decision notices in relation to the Appeal Scheme. I set out hereunder the specific policies, which are relevant to the appeal scheme, including those, which the Council has relied upon in reaching their decision to refuse planning permission.

The National Planning Policy Framework

- 3.2 Paragraph 11 of the NPPF highlights the overarching "presumption in favour of sustainable development". In respect of decision-taking, this means "approving development proposals that accord with the development plan without delay" or "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 7), granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 states that "This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1."

- 3.3 It is agreed in the SoCG that the 'tilted balance' is engaged in terms of footnote 7, in terms of both a) the Council's lack of a five-year supply of housing land, with the Council only able to show that they have 0.98 years supply of housing land and b) as the Council's housing delivery has fallen significantly below the required 75% target at at 34%.
- 3.4 The purpose of the Appeal Schemes is to deliver housing, specifically specialist accommodation for older people. Paragraph 11 (d) of the Framework requires that the policies, which are those most important for determining the application, are identified and where these are out-of-date the 'tilted balance' is engaged. In this respect the Council's housing policies are those deemed to be the most important policies, as this is foremost an application for housing. It has been agreed, per the Statement of Common Ground that Policy CS7 (Housing Provision) is out of date. It is also my view that Policy CS9 is similarly out of date.
- 3.5 Paragraph 15 of the Framework confirms that the planning system should be genuinely plan-led, and succinct and up-to-date plans should provide for a positive vision for the future of each area, addressing housing needs and other economic, social and environmental priorities.

Key policies contained in the NPPF of relevance to the Appeal Scheme include the following:

- 3.6 Paragraph 59 requires support of the Government's objective of significantly boosting the supply of homes and calls for a sufficient amount and variety of land to come forward where needed and that the needs of groups with specific housing requirements are addressed.
- 3.7 The framework requires that Council's plan for the minimum number of homes needed (paragraph 60)
- 3.8 Within the context of planning for housing minima, Paragraph 61 requires the Council to take into account housing needs for different groups including older people and people with disabilities.

- 3.9 Promoting the development of under-utilised land, especially brownfield land, to meet identified needs for housing where land supply is constrained (Paragraph 118).
- 3.10 Supporting development, which results in the efficient use of land, considering, among other matters, the need for different types of housing, market conditions and viability, and promoting regeneration and well-designed, attractive and healthy places (Paragraph 122).
- 3.11 Where there is a shortage of land for housing needs, it is important that policies and decisions avoid homes built at low densities and that all developments make the optimal use of land (Paragraph 123).
- 3.12 Policies for conserving and enhancing the historic environment are provided at paragraphs 184 to 202 of the NPPF. Paragraph 189 states that applicants are required to describe the significance of any heritage assets affected by proposals, including any contribution made by their setting.
- 3.13 Paragraph 196 states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including”. The Planning Practice Guidance (NPPG) supports the National Planning Policy Framework and comprises detailed guidance in respect of considering the heritage balancing exercise.

National Planning Policy Guidance

- 3.14 The National Planning Practice Guidance (NPPG) supports the National Planning Policy Framework and comprises detailed guidance in respect of various matters. With regards to older people’s accommodation, the NPPG (consolidated guidance dated 26 June 2019) outlines within guidance for ‘Housing for Older and Disabled People’ how local authorities should address the need for older person’s housing, stating that:

"Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking" (Paragraph 001).

3.15 The government advises that the need to provide housing for older people is 'critical' as people are living longer lives and the proportion of older people in the population is increasing (NPPG as paragraph 001).

3.16 It is acknowledged that there are different types of specialist housing designed to meet the diverse needs of older people which can include age-restricted general market housing, retirement living or sheltered housing, extra care housing or housing-with-care and residential and nursing homes (paragraph 010). This paragraph also states that there is a significant amount of variability in the types of specialist housing for older people. The list provides an indication of the different types of housing available, but acknowledges it is not definitive and that any single development may contain a range of different types of specialist housing.

3.17 Having regard to local housing supply and delivery, the NPPG categorically states that *"Plan-making authorities will need to count housing provided for older people against their housing requirement"*, although for residential institutions calculations might be based on the average number of adults living in a household (Paragraph 016a).

3.18 The NPPG further states that:

"Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people" (paragraph 006) and that "Innovative and diverse housing models will need to be considered where appropriate" (paragraph 012).

3.19 In relation to effects on heritage assets, the Planning Guidance advises that the relevant consideration in assessing whether a proposal might cause harm is the

impact on the significance of the heritage asset (significance derives not only from an asset's physical presence but also from its setting. A development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the asset. Where harm to a heritage asset is identified, it needs to be categorised as either less than substantial or substantial harm, in order to determine which policies in the framework apply. The extent of harm is to be clearly articulated. (Paragraph: 018 Reference ID: 18a-018-20190723)

3.20 The National Planning Policy Framework confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (Paragraph: 018 Reference ID: 18a-018-20190723). Note that the definition of conservation in the framework is "*The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance*". (My underlining)

3.21 The Framework requires that any harm to designated heritage assets is weighted against the public benefits of the proposal. The planning guidance confirms that public benefits follow from many developments (it is clear therefore clear that although different developments may deliver similar public benefits this does not imply that reduced weight should be applied to these public benefits, the key consideration is the benefit itself and not the conduit of its delivery). The guidance confirms that public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. (Paragraph: 020 Reference ID: 18a-020-20190723).

The Development Plan

3.22 The Development Plan at the time of writing, comprises the following documents:

- The Epsom and Ewell Core Strategy (2007) (CD 4.1); and
- The Epsom and Ewell Development Management Policies (2016) (CD 4.2);

3.23 The following local planning guidance is also relevant:

- Making the Efficient Use of Land (MEUL) – Optimising Housing Delivery (2018) (CD 4.3);
- Revised Developer Contributions Supplementary Planning Document (2014) (CD 4.4);
- The Sustainable Design SPD (2016) (CD 4.14);
- Environmental Character Study (2008) (CD 4.13);
- Epsom & Ewell Borough Council, Woodcote Conservation Area Appraisal (2010) (CD 4.15);
- Epsom & Ewell Borough Council, Chalk Lane Conservation Area Appraisal (2010) (CD 4.16).

3.24 The Making Efficient Use of Land report (2018) confirms that the Council will, in taking decisions, apply a new approach to meet the national planning policy requirement to significantly boost housing delivery and optimise land for new housing.

3.25 The evidence of Mr Williams will also refer to the Environmental Character Study (2008), in respect of matters relating to townscape and visual effects.

3.26 The written evidence of Ms Warren will refer to the Conservation Area appraisals, in respect of matters related to heritage impacts and benefits.

3.27 The list of relevant Local Plan policies is set out in the Planning Statement, which was submitted in support of the planning application. The policies relevant to the Appeal are listed below:-

The Epsom and Ewell Core Strategy (2007)

- Policy CS5 - The Built Environment
- Policy CS7 – Housing
- Policy CS 8 - Location of Housing Development
- Policy CS9 - Affordable Housing

The Epsom and Ewell Development Management Policies (2016)

- Policy DM5 - Trees and landscape
- Policy DM8 – Heritage Assets
- Policy DM9 - Townscape character and local distinctiveness
- Policy DM10 - Design requirements
- Policy DM11 - Housing Density
- Policy DM13 – Building Heights

Policy CS5 – The Built Environment

3.28 Policy CS5 directs the Council to protect and to seek to enhance the Borough's heritage assets, and directs that the settings of these assets are protected and enhanced. The policy requires high quality and inclusive design for all developments, and requires that development should create attractive, functional and safe environments, reinforce local distinctiveness and compliment the attractive characteristics of the Borough and make efficient use of land and have regard to the need to develop land in a comprehensive way.

3.29 Policy CS5 at paragraphs 1 and 2 requires that heritage assets and their settings are protected and enhanced. This element of CS5 is not consistent with the framework, which allows some level of harm to heritage assets, and requires that this harm is balanced against relevant public benefits. This element of CS65 is furthermore considered to exceed the statutory provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Insofar as CS5 is inconsistent with the Framework, it is considered to carry less weight in the consideration of the Appeal Schemes.

3.30 Notwithstanding the inconsistency of the heritage provisions of CS5 with the framework, the evidence of Ms Warren and Mr Williamson confirms the enhancement of the settings of the identified heritage assets.

3.31 The provisions of CS5 calling for High quality and inclusive design, and the three sub paragraphs are considered to be consistent with the Framework and these provisions accordingly carry due weight.

3.32 The Appeal Scheme is consistent with the design elements of CS5 and delivers positively against the various policy limbs, through the high quality design, the creation of safe and accessible public spaces, the efficient use of previously developed land, which relates well to the context and would enable comprehensive development. These matters are expanded upon in the evidence of Mr Earwicker.

Policy CS7 – Housing

3.33 Policy CS7 directs the Council to ensure that sufficient housing is provided to meet the Borough's housing requirements set out in the South East Plan (2006), the South East Plan was revoked in 2012. CS7 directs the council to monitor housing delivery to manage the release of housebuilding land to provide the amount and type of homes required (the Council's monitoring is set out in the Annual Monitoring Reports from 2017/18 to 2019/20, CD 4.7, CD 4.8 and CD 4.9. The Government's monitoring of housing delivery is set out in the Housing Delivery Test Results attached to this proof as Appendix APP/12)

3.34 The housing targets for the LPA set out in CS7 have been superseded by the Government's up to date housing targets. The Housing targets within Policy CS7 are accordingly out of date and therefore will carry very little weight in the determination of the application. The LPA's MEUL report to the Licensing and Planning Policy Committee dated 8 May 2018 confirms at paragraph 8.1 that "*The Core Strategy's current housing target is considered out of date.*"

3.35 While the housing targets set out within CS7 are out of date, and accordingly the policy is not able to effectively deliver the number of homes required, it is considered that the Appeal Scheme is supported by the element of the policy, which requires that the LPA is to adjust the pace of delivery, where a housing delivery shortfall emerges, to bring forward new development. The positive approach to bringing forward the site for housing development is reflected in the positive pre-application with officers, and the engagement with officers prior to the determination of the application. The supporting paragraph 3.11.1 of the Core Strategy sets out that new housing development in Epsom and Ewell will be focused in locations that perform best in sustainability terms.

Policy CS8 - Location of Housing Development

- 3.36 Policy CS8 states that new housing development will be located within the defined built up area of Epsom and Ewell and within the three hospital cluster sites of West Park, St Ebba's and the remaining part of Horton B. CS 8 states that "the emphasis will be on the re-use of suitable previously developed land (including the re-use or conversion of existing buildings) for housing." The policy confirms that subject to other policies in this plan, planning consent will be given for development within the built up areas, including infilling, redevelopment and conversion. The locational strategy of the policy is to direct higher density development to central location, such as Epsom Town centre, and other local centres, close to existing services and facilities and accessible by public transport, walking and cycling.
- 3.37 Overall CS8 is considered to be broadly consistent with the Framework insofar as it aligns with the objectives of sustainable development and promotes the use of land within settlements (NPPF 118), is well located in relation to public transport (NPPF 110).
- 3.38 The Appeal proposals are consistent with CS8. It is common ground between the parties that the Site is considered a highly sustainable location. The Appeal Site is located within walking and cycling distance of the Epsom Town Centre, and represents one of the largest development opportunities close to the town centre and is very well located in relation to public transport and cycling infrastructure, is located close to existing services and facilities (The Epsom Hospital itself, recreational facilities, pubs, churches, shops etc.).

Policy CS9 - Affordable Housing

- 3.39 Policy CS9 states that that Council has an overall target of 35% of new dwellings to be affordable, equating to a provision of 950 new affordable homes over the period 2007 to 2022. The policy seeks 40% affordable housing from development of more than 15 dwellings or on sites of 0.5 ha or above, having taken the viability of the development proposals into account. Paragraph 8.6 of the Revised

Developer Contributions Supplementary Planning Document (2014) sets out that the Council will apply Policy CS9 to open market sheltered or extra care housing.

3.40 Policy CS9 reflects an out of date target figure for affordable housing numbers, and the Council does not have an up to date evidence base document setting out the amount or type of affordable housing required in the Borough. Insofar as CS9 intersects with CS4, which also significantly understates the required amount of housing in the Borough, this means that the Council's affordable housing policies are not able to be relied upon and should be afforded limited weight.

3.41 The original Planning Applications were supported by Affordable Housing Viability assessments (CD 1.3.28 and CD2.2.16), and an affordable housing offer was made on the basis of what could be reasonably provided through the Schemes. The Appellant is undertaking a revised viability assessment to take into account the changes to the Schemes and updated costs. This revised viability work may lead to an adjustment of the original offers. Subject to evidence that the Appeal Schemes delivers the maximum amount of affordable housing, which is viable, and this being secured by legal agreement, the Appeal Scheme is consistent with the general policy thrust of CS9. It should be noted that Appeal A is capable of delivering a greater amount of affordable housing.

Policy DM5 Trees and Landscaping

3.42 Development Management Plan Policy DM5 requires that the Borough's trees, hedgerows and other landscape features will be protected and enhanced by, planting and encouraging the planting of trees and shrubs, maintaining trees in streets and public open spaces 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. Where trees and other landscape features are removed, appropriate replacement planting will normally be required. Sound justification is required for loss of trees or landscape features and suitable replacements are to be proposed.

3.43 DM5 is considered to carry full weight in the determination of the Appeal Scheme. The Appeal Scheme is, as demonstrated in the landscaping details and arboricultural information submitted with the application, consistent with DM5, and in fact results in significant landscaping and arboricultural enhancements on the site.

DM8 Heritage Assets.

3.44 DM8 confirms that the loss of heritage assets will be resisted and opportunities to conserve and enhance them should be taken by new development. DM8 is consistent with the Framework insofar as the policy requires that the significance of the asset is established, thereafter the policy requires that the significance of the asset is taken into account in the assessment process.

3.45 DM8 is considered to be inconsistent with the approach set out in the Framework, as it fails to provide guidance to the decision maker on the manner in which to consider an application which affects the significance of a heritage asset. This approach is set out in paragraph 193 of the Framework, which requires that the harm to heritage assets be considered. The Framework then requires that any harm to heritage assets to be justified in terms of the provisions of paragraph 195 or 196 of the Framework.

3.46 Up to the point that DM8 requires the identification and significance of heritage assets to be identified, the policy is consistent with the Framework. However the assessment approach set out under the second paragraph of DM8, which requires that the significance of the Asset be taken into account (namely whether it is a designated or non-designated asset) when determining whether the impact is acceptable is inconsistent with the Framework and PPG paragraph 18.

3.47 The evidence of Ms Warren will show that her approach to assessing the significance of, and harm to heritage assets is in accordance with the NPPF and the guidance of the PPG, and that the Council has erred in its determination of the application in placing undue weight on the approach set out in CS8. It is my

opinion that the significant schemes benefits demonstrably outweigh the limited harm to heritage assets.

DM9 Townscape Character and Local Distinctiveness

3.48 DM9 confirms the employment of the Conservation Area Appraisals and Environmental Character Study to guide the assessment of development proposals. The policy seeks the enhancement of the townscape, “particularly those areas with poorer environmental quality and where the character has been eroded or needs improving.”. DM9 advises that “Planning permission will be granted for proposals which make a positive contribution to the Borough’s visual character and appearance” and that consideration will be paid to;

- compatibility with local character and the relationship to the existing townscape and wider landscape;
- the surrounding historic and natural environment;
- the setting of the proposal site and its connection to its surroundings; and
- the inclusion of locally distinctive features and use of appropriate materials

3.49 DM9 is considered to carry full weight in the assessment of the application. The details set out in the Design and Access Statement, HTVIA and the evidence of Mr Williams will show that Appeal B is consistent with DM9, while as a result of some townscape and visual impact Appeal A gives rise to some policy conflict with DM9 due to the contrast between the proposed scheme and its suburban context and the moderate visual effect that result in close range worst case viewpoints.

Policy DM10 - Design requirements

3.50 Policy DM10 is divided into two key parts, the policy limbs under DM10(i) to DM10(vi) relate to character and local distinctiveness, and in this regards these elements intersect with DM9. DM10(ix) relates to amenity considerations both within and affected by development proposals.

3.51 As the Council has found in the MEUL report in respect of DM11 and DM13, several policy limbs of DM10 (DM10(i) to DM10(v)) relate directly to the type, density, plot

layout and format of housing. These limbs are considered to be policy provisions which relate directly to the delivery of housing and could inhibit the achievement of the Council's housing requirements, accordingly parts of Policy DM10 are considered to be out of date pursuant to the provisions of Paragraph 11(d) of the framework and accordingly reduced weight should be afforded to these policy provisions.

3.52 The information included with the application details how the Appeal Scheme complies with DM10(vii) to DM10(xiii), which apart from DM10(ix), relate to matters including sustainability, safety, access, public realm and impact on telecommunications. The SoCG confirms that the LPA agrees with the Appellants position of the consistency of the Appeal Scheme with DM10(vii) to DM10(xiii), with the exception of DM10(ix) or that these provision are not relevant to the Appeal Schemes.

3.53 DM10(ix) states that development proposals should have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance; It is considered that the development proposals have paid careful regard to amenity, as is set out in more detail in the subsequent sections of this proof as well as in the proofs of Mr Williams and Mr Earwicker.

DM10(i) - prevailing development typology

3.54 The Appeal Scheme presents a new form of development within the area which is considered appropriate, considering the constraining effect of DM10(i) on the Council meeting its housing needs, strict adherence with DM10(i) would lead to low rise detached or semi-detached housing on the site which would fail to accord with the Framework's requirement to make efficient use of land. The main features of the existing townscape context are, for the purpose of the Appeal Schemes, the existing (retained) hospital buildings to the north, the Appeal Site itself, and the existing residential dwellings to the west of the Appeal Site, and those further away to the east and south. The Appeal Site is a large unstructured site, which houses buildings ranging from one to four storeys, including a tall chimney rising

to over 30 metres. The adjacent development ranges from two storey detached and semi-detached housing to the hospital buildings which range in height up to 29.83 metres in height, to the top of the rooftop plant structure.

The submitted Design and Access Statement and the HTVIA demonstrated how the Appeal Schemes have responded to the prevailing development typology, including housing types and sizes, while considering the importance of making the most effective and efficient use of land. More details in this regard are set out in the subsequent sections of this proof and in the evidence of Mr Williams.

DM10(ii) - prevailing density of the surrounding area

3.55 The Appeal Scheme does not reflect the low density of the residential areas adjacent to the site. The policy position in DM10(ii) is, as set out in paragraph 3.51 above considered to be out of date. This position is reflected in the LPA's planning guidance "Making the Efficient Use of Land (MEUL) – Optimising Housing Delivery 2018", which directs that other national and local policies which seek to optimise the use of land are to be afforded greater weight than constraining policies such as DM11, A consistent approach is to similarly afford significantly reduced weight to DM10(ii). DM10(ii) is considered to be inconsistent with the Framework and accordingly should be afforded very little weight in the consideration of the Appeal Scheme.

DM10(iii) - scale, layout, height, form (including roof forms), massing;

3.56 The proof of Mr Williams shows how the design of the Appeal Scheme has considered the scale, layout, height, form and massing of the local character and townscape context. The existing site buildings are set behind parking and poor quality landscaping. The proposed buildings position and landscaping will provide an active frontage and improved relationship to the street and enhancements to the public realm. The Appeal Scheme is located on a large site presenting a discordant layout and a lack of overall townscape cohesion. The evidence of Mr Williams will show how the Appeal Scheme improves the local townscape The taller elements of the Appeal Scheme are located to the rear of the Appeal Site to

respond to the hospital buildings, as per the directions of the LPA's planners as confirmed in pre-application consultations.

3.57 The relationship of the Appeal Scheme to the dwellings houses to the west of the site is appropriate through the positioning of the lower frontage buildings, the orientation and location of units, setbacks and building offsets, as well as the proposed additional boundary planting.

DM10(iv) - plot width and format which includes spaces between buildings

3.58 The Appeal Site represents the interposition of a large site with expansive areas of hardstanding and discordant overall master planning, adjacent to residential development to the west and a hospital parking area to the east. This policy element is considered to be out of date having had regard to paragraph 11 of the Framework. It is furthermore considered to be a significant impediment to housing delivery, and counter to paragraphs 117 to 123 of the Framework, to seek to replicate the adjacent plot width and format of the adjacent low density residential environment.

3.59 In respect of spaces between buildings, that the Appeal Schemes increase the distance between number 40 Woodcote Green Road and the proposed buildings (west building) in comparison to the distance between Woodcote Lodge and 40 Woodcote Green Road. Whilst the west building rises to 4 / 5 storeys in respect of Appeal B and 5 storeys in respect of Appeal A where adjacent to 40 Woodcote Green Road, the distance between the existing site buildings and the proposed western building has been increased by around 5 metres.

3.60 The relationship between the existing frontage buildings is improved through the Appeal Scheme with the space between Rowan House and Woodcote Lodge significantly increased (to that between buildings A and B). It is thus considered that the Appeal Scheme is consistent with this limb of DM10.

DM10(v) - building line

3.61 The existing buildings on the Appeal Site do not follow a consistent street setback or building line or relate to the existing street setback line of the adjacent dwellings. Furthermore, the setbacks of Rowan House and Woodcote Lodge are inconsistent with each other and the adjacent buildings. The amended Appeal drawings have adjusted the building positions to increase the setback from Woodcote Green Road, with the setback of the west building now aligned with the detached houses to the west, while the setback to the east building has been increased to allow for significantly enhanced landscaping and public realm. It is thus considered that the Appeal Scheme is consistent with this limb of DM10.

DM10(vi) - typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.

3.62 The character of the area is strongly influenced by the dominant scale, form and height of the hospital campus, with predominantly flat roofs and an institutional aesthetic. The suburban housing with arts and crafts influence and pitched roofs has a lesser influence on the Appeal Site due to its lesser prominence and more limited interaction.

3.63 The Appeal Scheme adopts a contemporary design approach, which forms its new site identity and character, whilst respecting the appearance of the adjacent residential and institutional buildings. As set out in the Design and Access Statement, the Appeal Scheme takes reference from the local environment in terms of the proposed materials, which are of high quality. The materials, colours and composition provide a rich design, which while not traditional, is an appropriate response to the typical details and key features in the area.

3.64 While development on this scale cannot be constructed in the traditional architecture of the suburban housing in the immediate context, the Appeal Scheme is considered to respect the typical details and key features of the local area, with the use of materials, elevation proportions and architectural detailing.

3.65 Following concerns raised by the Planning Committee in respect of the colour of the aluminium elements of the elevations, the Appellant has amended the materials details to provide a lighter colour to the metal elements, which is reflective of local materials colours. The Appellant has also introduced a greater proportion of brick into the building elevations. It is thus considered that the Appeal Scheme is consistent with this limb of DM10.

Policy DM11 - Housing Density

3.66 Policy DM11 sets out the LPA's approach to securing development, which seeks to make efficient use of land and sets a general position that most housing development will not exceed 40 dwellings per hectare, except for allocated sites, well-located sites with good access to services and public transport, and sites where the townscape has capacity for higher density developments. It is common ground that the Appeal Site is sustainably located and has good access to public transport.

3.67 DM11 is considered to be out of date having had regard to footnote 7 of paragraph 11(d) of the Framework. It is furthermore considered to be a significant impediment to housing delivery, and counter to paragraphs 117 to 123 of the Framework.

3.68 The LPA's Making Efficient Use of Land report dated 2018 confirms the Council's new positive approach to assign greater weight to national and local policies, which promote the efficient use of land and optimise sites for housing. This approach would assign significantly reduced weight to constraining policies such as DM11 (Density) and Policy DM13 (Building Heights) which have been shown to have a limiting effect on housing delivery.

3.69 Furthermore, the restrictive density policies under DM11 introduce a policy inconsistency with the CS policies, CS1 and CS2, (which promote sustainable development and direct development away from the Green Belt). The lower density development promoted by DM11, and the constraining effect of this policy, as acknowledged in the MEUL 2018 report, are considered to have resulted in

increased pressure to build on the Green Belt – directly as a result of the LPA’s housing supply and delivery failures, as evidenced by the out of date housing policies in the Core Strategy, the Housing Delivery Test results and only having 25% of the required supply of housing land.

3.70 The Appeal Proposals are considered to conform with DM11 overall as the site meets the various locational and accessibility exceptions listed under DM11 and enables the delivery of a higher density than 40 du/ha. The Appeal Site presents a rare opportunity within the Borough to develop an underutilised brownfield site, to deliver a housing scheme at higher densities, which makes efficient and effective use of land and contributes to meeting the LPA’s housing need.

DM13 – Building Heights

3.71 Policy DM13, as set out in paragraph 3.40 of the Development Management Policies Document, has its origins in the 2000 Local Plan. DM13 seeks to ensure that proposals respect the scale and visual character of the existing townscapes. Paragraph 3.41 confirms that the intention is not to deliver uniform heights.

3.72 Per the guidance in paragraph 3.42 early discussions with the LPA took place (refer to pre-app responses, contained within APP/07 and APP/08) to ensure that appropriate building heights were achieved.

3.73 Policy DM13 states that buildings higher than 12m will be inappropriate in all areas except for the identified areas within the Epsom Town Centre Boundary. This is equivalent to a building of three to four storeys. In consideration of the limiting effect on housing delivery of this policy, the MEUL report confirms the Council’s new positive approach, in line with the NPPF’s presumption in favour of sustainable development, would assign significantly reduced weight to DM13.

3.74 The application of DM13 has been considered in terms of the MEUL report, the Framework’s positive disposition towards sustainable development and the character and context of the site and locality, in this regard it is noted that there are buildings on and adjacent to the Appeal Site which are far taller than the DM13 restriction. The proposed height of building is thus considered to be appropriate,

considering the reduced weight of DM13. The proposed maximum building heights are in fact lower than the pre-app advice which stated that buildings in excess of 10 stores could be delivered towards the rear of the site.

Site Designations

3.75 The LPA's policies map confirms that the Appeal Site is situated within the "Built-up Area", and thus is appropriate for housing development per the provisions of Policy CS8. The site is free from other planning designations and is not allocated for any specific development purpose or use.

3.76 Other (off-site) designations which have bearing on the Appeal Site include:

- The open space to the southeast of the site (beyond Woodcote Green Road) which is a designated 'Park and Open Space' the eastern section of which is subject to a tree preservation order.
- Woodcote Green Road to the south of the Appeal Site is identified as a designated Cycle Route.
- There are no tree preservation orders (TPO) on the Appeal Site, or immediately adjacent to its boundaries, which influence development of the Appeal Site.
- The Appeal Site does not fall within a conservation area and contains no designated or non-designated heritage assets. The nearest designated heritage assets are set out in the Statement of Common Ground.

Making Efficient Use of Land (Report 2018):

3.77 On Tuesday 8 May 2018 the LPA's Licensing & Planning Policy Committee considered a report entitled "Making the Efficient Use of Land – Optimising Housing Delivery". The Committee resolved (per minutes dated APP/13) to "*Acknowledge the national and local material considerations in relation to housing need, housing land supply and the need to optimise development land and that due weight should be attached to these matters when assessing planning application as against current adopted local policies*". The minutes confirm that the proposed strategy was to be communicated to the Planning Committee and would be

deployed to assist them in determining applications in light of requirement[s] (*sic*) to optimise housing supply.

3.78 Specifically the MEUL report states that CS7 commits the Borough Council to seek to ensure that sufficient housing is provided and "*critically... all development should make efficient use of land*" (Paragraph 2.4).

3.79 The MEUL report states at paragraph 2.5 that policies DM11 and DM13 "*could serve to restrict the 'capacity' of sites located within the existing built up areas*". It is therefore clear that the MEUL report does not seek to compromise the overarching development strategy set out in CS1 and CS2, for development to contribute to sustainable development and to safeguard the Green Belt. The report requires that "*Members of the Planning Committee, as decision makers will attribute weight to the wider national and local material planning considerations when assessing residential development schemes against current local adopted policy.*" (Paragraph 3.2. Paragraph 3.3 requires the Planning Committee to attribute greater weight towards the need to deliver additional homes.

3.80 The MEUL report confirms that the Council and residents have expressed a desire to consider opportunities to optimise capacity of development sites, which could include increased densities and building heights in suitable locations, including sites in proximity to railway stations and sites along transport corridors.

The emerging Local Plan

3.81 The current Core Strategy is now 14 years old. The Statement of Common Ground confirms that the new Epsom and Ewell Local Plan 2017-2037 is in preparation. While early Regulation 18 (issues and options) consultations have taken place further Regulation 18 consultations are proposed for 2021 - January 2022. The plan is has an estimated date for adoption in December 2023. The Emerging plan is at an early stage of preparation and no weight was placed upon it by the Council in the determination of the application for the Proposed Development.

3.82 The emerging plan Issues and Options Consultation (Refer APP/14) confirms;

- *"Our housing policies are out of date and no longer conform to national planning policy."*
- *"the evidence shows that we don't have enough currently available land to meet the demand for new homes over the next 15 years".*
- *"there is significant demand from residents who are struggling for space and those wishing to downsize."*

3.83 The report to the Licensing and Planning Policy Committee (Refer APP/15) dated 25 January 2018 states *"a significant number of responses are supportive of urban intensification and taller buildings in the right locations – subject to maintaining and enhance visual character and appearance."*

3.84 While the emerging local plan is not considered to carry any weight in the determination of the Appeal Scheme, it does highlight the constrained land supply in the borough and the need to make much more efficient use of land, including the need for land to be developed at greater density and height.

4.0 Planning Policy Compliance

4.1 In this section of my Proof of Evidence, I will explain why the Appeal Schemes should be supported when considered against the Development Plan and how the “tilted balance” factors into the consideration of the Appeal Scheme against the development plan.

4.2 Given the nature of the inquiry, and the wide-ranging agreement between the Council and the Appellant on a significant number of matters, I do not point out below every aspect where there is agreement between the parties of policy matters. This is covered in the SoCG. My proof therefore focuses on issues pertinent to the Reasons for Refusal and particularly the matters relevant to the Appeal Schemes in respect of:

- The critical importance of the delivery of housing;
- The effects on the character and appearance of the area;
- The amount and scale of development;
- The provision of landscaping;
- The effects on residential amenity
- The effects on heritage resources
- The associated housing, social and public benefits of the Appeal Scheme which need to be considered in the wider planning balance.

4.3 While there are a number of similarities between Appeal A and Appeal B, there are areas where the differences between the two Schemes interact differently in terms of policy compliance, where relevant these differences are highlighted in my proof of evidence.

Effect on the character and appearance of the area (including trees and landscaping considerations: Reason for Refusal 1 / 2

4.4 It is my opinion that, save for the identified aspect of Scheme A, which does not fully comply with DM9, as set out in more detail in Mr William’s evidence, the design and appearance of the Appeal Scheme are consistent with those

provisions of the Development Plan's design guidance. The design of the Appeal scheme is of very high quality and the building elevations are well detailed and feature-rich, with deep window reveals, recessed brick features, double height window bays, chamfered brickwork features, aluminium window infills, and mix of brick colours (referenced to local material colours).

Height and massing

- 4.5 The height and massing of the Appeal Scheme were informed by detailed townscape analysis and various pre-application options were considered and discussed with the LPA's design and planning officers. Viewpoints for a set of Verified Views (Refer the HTVIAs under CD 1.3.14 and CD 2.2.21) were agreed with officers.
- 4.6 The arrangement of buildings and heights around the Appeal Site have been informed by the existing buildings on the site and the taller adjacent hospital building. The heights of existing buildings on the Appeal Site range from three to four storeys along the frontage with pitched roofs, to the smaller, although considerably taller chimney. The heights of the adjacent buildings on the Hospital range from two and three storeys structures to the taller Wells Hospital Building, which rises to 87.740m OAD, to the inset double storey element of the building, with the parapet level of the Wells Building being 79.950m OAD.
- 4.7 The Proposed Development largely replicates the existing height and massing of the existing site frontage buildings and positions the taller elements to the rear, adjacent to the institutional site. This approach was agreed with LPA officers, as an appropriate response to the site. The principle of this arrangement (taller to the rear and lower to the front) is understood to be agreeable to the Planning Committee; however, the height of the taller elements, being taller than the hospital was not considered acceptable.
- 4.8 The evidence of Mr Williams shows that the design of the Scheme B, and in particular, the height, scale and massing do not adversely impact and harm the character and appearance of the area. While a minor adverse townscape effect

and moderately adverse visual effects are identified in respect of Scheme A, Mr Williams concludes that Scheme A is consistent with national policy. In respect of local policy the Schemes are aligned with Policies DM9 and DM10 (notwithstanding the minor adverse townscape effects and moderate visual effect). Indeed in respect of both Schemes Mr Williams identifies a number of neutral and beneficial effects.

- 4.9 The height, scale and massing of the Appeal Scheme has been influenced by pre-application discussions with design and heritage officers (APP/07 and APP/08), which stated that heights of more than 10 storeys were appropriate. The final form of the Schemes were modified in consideration of comments received during pre-submission public engagement, which resulted in the height of the Appeal Scheme being reduced to below 10 storeys.
- 4.10 In relation to Appeal A the setback of the proposed buildings from Woodcote Green Road has been increased through the Wheatcroft Amendments. The increased building setbacks more than double the street setback in respect of the west building from 7 m to 16 m and increase the setbacks for the east building from 2.2 m / 5 m to between 5 m / 10 m. In addition, a step has been introduced to the east building, which improves the articulation of the site frontage, and provides an improved relationship between Buildings A and B.
- 4.11 The increased building setbacks has the effect of reducing the perceived scale of Scheme A on the streetscape, due to the buildings being less prominent as a result of the increased setbacks and due to the filtering effect of the landscaping.
- 4.12 The Appeal Schemes create an improved relationship to the parking area of the retained hospital site, which fronts onto Woodcote Green Road, than exists presently. The Appeal Schemes creates enhanced landscaping, new public realm and a point of interest adjacent, when viewed obliquely over the hospital parking area from the east.
- 4.13 As set out in more detail in the proof of Mr Williams, the Appeal Schemes have a notable benefit to the Woodcote Millennium Green, through the creation of a

positive frontage, a wide landscape corridor and a sensitive use of materials, while these benefits are to some degree counter balanced by the appreciation of increased building mass behind the immediate Woodcote Green frontage.

Use of materials and façade design

- 4.14 The LPA's design officer comments on the application confirm the approach of a brick led materials strategy, with this being considered "*a good approach*", subject to further details being secured by planning conditions. In relation to Planning Application A, concerns were raised by officers in respect of the darker colour of the aluminium, the final colour of which was to be agreed pursuant to planning conditions, in this respect the Wheatcroft Amendments are considered to have addressed this concern in relation to the colour of materials, again final details are to be agreed via the submission of further details which are reserved by Condition.
- 4.15 The façade composition has been developed to break up the massing of the buildings and to articulate the façade. The use of balconies and planting elements on the balconies brings further articulation and greening up the buildings.

Landscaping and tree planting

- 4.16 The existing condition of the Appeal Site is that of an urban site with sparse landscaping and minimal tree cover, a site which is dominated by extensive car parking and a disparate collection of building forms. The Committee Reports (paragraphs 2.2) state that the existing Appeal Site is of poor quality lacking any coherent masterplan. Mr Williams agree, with the LPA's Environmental Character Study that the Epsom Hospital character sub-area is visually incongruous, buildings are much larger than the surrounding area, it is discordant with its surroundings, is in poor condition, and has a low townscape quality.
- 4.17 The Appeal Scheme creates a new area of productive and attractive townscape, with positive relationship to the streetscape and replaces existing buildings of poor quality.

- 4.18 Paragraph 13.8 of the Committee Reports confirms that the approach of the Appeal Schemes “to integrate[s] high-quality landscaping, green roofs and planted window boxes, to help the buildings integrate into their surroundings.
- 4.19 The Appeal Schemes provide enhanced connectivity between the hospital to the north and the Millennium Green to the south, with a new attractive traffic free route, and a new public plaza of significantly enhanced quality and landscaping.
- 4.20 The majority of the external spaces of the Proposed Developments are to be put to new landscaping areas, including hard and soft landscaping and extensive tree planting. A small area of the site would be used for parking and vehicular circulation, amounting to some 1550 m² of the site (10 percent) would be used for access and parking purposes. Around 44 percent of the site proposed to provide new landscaping, public realm and pedestrian spaces (6700 m²). 7,407 m² of the site is currently occupied by access and parking areas and 3,308 m² is landscaped. In addition the Appeal Schemes provide more than 2,500 m² of green and landscaped roof areas. The Appeal Schemes thus represent a significant improvement in both the amount and quality of landscaping.
- 4.21 The Appeal Schemes introduce significant new green landscaping and tree planting. The design and parking arrangements ensures that car parking and highways design do not dominate the local environment, by placing the majority of the parking within the buildings.
- 4.22 The landscaping proposals of the Appeal Scheme allow for ecology and biodiversity benefits, and biodiversity net gain. In particular a biodiversity corridor has been provided along the western boundary of the site, which connects to the area of woodland to the south of the site.
- 4.23 The Appeal Scheme delivers significant improvements in the landscaping quality of the site. The current landscaping quality is of an incoherent site, dominated by hardstanding put to car parking and a narrow fringe of trees, the majority of which are of poorer quality (category C and U). The Appeal Scheme seeks to provide 113 new trees whereas 29 trees are to be removed. The new street trees

on the Appeal Site along Woodcote Green Road are to be planted as large specimens at 6 metres tall, and which are anticipated to grow to a height of 10 metres. While the proposals require the removal of a fine category B Copper Beech (Tree T36) the loss of this tree is considered to be offset by the significant arboricultural, landscape and ecological enhancements

- 4.24 The Appeal Schemes allow for a significant improvement to the tree planting and landscaping along Woodcote Green Road in comparison to the existing site condition. The increased landscaping areas enabled by increasing building setbacks from 7 m to 16 m in respect of the west building and from 2.2 m / 5 m to between 5 m / 10 m in respect of the east building have allowed an additional 16 trees to be planted in this area in comparison to the Original Scheme. The Wheatcroft and Appeal B changes to the parking and landscaping along the western site boundary has allowed the number of trees to be increased from 11 in the Original Scheme (7 existing and 4 proposed) to 19 (7 existing and 12 proposed) along this edge.

The historic environment

- 4.25 A key consideration of the Appeal Scheme, in relation to scale, height, massing and design was the relationship to the Chalk Lane Conservation Area and nearby Listed Buildings. As set out in the SoCG it is agreed that the Appeal Scheme would result in less than substantial harm to the Chalk Lane Conservation Area and some nearby Listed Buildings.
- 4.26 The effects of the Appeal Schemes on the heritage assets has been carefully considered during the design of the development. The height and scale of the scheme has been reduced substantially over the course of the pre-application design state of Scheme A through lowered building heights, and modifications to the proposed massing. The use of materials and the elevation composition have been updated over the design process and during the course of this appeal, with additional brickwork and changes to the colours of materials.

- 4.27 The written evidence of Ms Warren confirms, and agreed with the LPA in the Statement of Common Ground, that the harm from the Appeal Scheme on the Chalk Lane Conservation Area falls within the less than substantial harm category. Accordingly, the NPPF paragraph 196 balancing exercise is engaged. The HTVIA and evidence of Ms Warren confirms that the significance of harm ranges from a low to negligible level of less than substantial harm. Ms Warren has concluded that there is no impact on the significance of the Woodcote Conservation Area; on the basis of a lack of intervisibility, level of existing alteration to setting and lack of functional association.
- 4.28 A low level of low level of less than substantial harm has been identified in respect of Westgate House (Grade II Listed) 67-69 Dorking Road (Grade II Listed), The White Horse Public House (Grade II Listed), The Hylands (Grade II* Listed), Hylands House (Grade II* Listed) & West Hylands (Grade II Listed). A negligible impact is identified in respect of Queen Anne House and Woodcote End House (Grade II* Listed) & Service Block to Westcote End House (Grade II Listed).
- 4.29 The Evidence of Ms Warren notes that as the impacts for Appeal A scheme are already at the lowest end of the less than substantial spectrum, the impacts caused by Appeal B remain as those for Appeal A. Ms Warren's opinion is that it is hard to differentiate between the Schemes in heritage terms as both result in additional height and massing in the setting of the heritage assets, albeit with one being at a lower level than the other. The smaller Appeal B or the Wheatcroft Amendments do not therefore shift the assessment from 'some impact' to 'no impact' and therefore the lowest level of harm identified remains appropriate.
- 4.30 The Appeal Scheme results in significant public benefits, set out below, and is a key development site in the Borough, and presents one of the few brownfield redevelopment sites capable of delivering housing at scale.
- 4.31 An analysis of the Appeal Scheme against each of the policies cited in Reasons for Refusal 1 and 2 (as per the CMC note) is provided in the table below:

Policy Reference	Policy Compliance
<p>CS5 Built Environment</p>	<p>The main aim of this policy is, per the introductory policy text to CS5, to protect and seek to enhance the borough’s heritage assets, the policy does also seek the creation of attractive environments, which reinforce local distinctiveness, are complementary to the characteristics of the borough and make efficient use of land.</p> <p>Although some impact on heritage assets has been identified, this is at the low end of the less than substantial harm spectrum, and the significant public benefits of the scheme are, as set out in subsequent sections of this proof considered to demonstrably outweigh this harm.</p> <p>It is notable, in consideration of the above element of CS5 that the LPA has not identified any conflict with DM8 (Heritage Assets); either within the Committee Report, in the deliberations of the Planning Committee or in the Decision Notices.</p> <p>As set out in the proof of Mr Earwicker and Mr Williams , the design of the scheme creates an attractive development which reinforces local distinctiveness.</p> <p>The Appeal Scheme makes provision for large new areas of high quality public realm, through and in front of the Appeal Site, and extensive areas of car free landscaping..</p> <p>The Appeal Scheme provides significant improvements to the public realm, as well as a new civic focal point at the eastern entrance to the site.</p> <p>The use of material, colour palette, and elevation composition reflect and reinforce local distinctiveness and complement the existing character of the borough.</p> <p>The Appeal Scheme makes a highly efficient use of land, and does not compromise the later comprehensive development of adjacent land.</p>

<p>DM9 Townscape Character and Local Distinctiveness</p>	<p>The urban design, architectural and landscape approach has been informed by the Conservation Area Appraisals and Environmental Character Study as per the submitted HTVIA.</p> <p>The evidence of Mr Williams and the Committee Reports highlight the poor environmental quality of the Appeal Site and the wider hospital precinct</p> <p>There is a difference in the effect on townscape character, and visual effects, between the two schemes.</p> <p>As set out in the evidence of Mr Williams the Appeal A results in some adverse townscape and visual effects, but that these should be balanced with the slight beneficial townscape effect. Mr Williams' evidence finds that there is some policy conflict with DM9.</p> <p>In respect of Appeal B, Mr Williams concludes that the Scheme will result in slight and moderate townscape benefits and neutral or substantial beneficial visual effects and there is no policy conflict with DM9.</p>
<p>Policy DM 10 Design Requirements for New Developments</p>	<p>DM10(i) to DM10(vi) are provide the "<i>most essential</i>" design elements in respect of the local area and streetscape.</p> <p>The design of the appeal scheme is considered to be consistent with the policy requirements set out within DM10(i) to DM10(vi) with the exception of DM10(ii) – which is considered to be out of date for the same reason as DM11 and DM13.</p> <p>As set out in the Design and Access Statement the HTVIA, and the evidence of Mr Williams and Mr Earwicker, the Appeal Scheme responds positively to the prevailing development typology, has considered the adjacent taller / large format hospital buildings and the position and scale of adjacent housing types. The Appeal Scheme provides a justified distribution of height and massing on the site and appropriate building setbacks and heights which have considering the importance of making the most effective and efficient use of land.</p>

	<p>The relationship of the Appeal Scheme to the dwelling houses to the west is considered reasonable and has been carefully structured to minimise significant adverse impacts on amenity.</p> <p>Amenity impacts on the adjacent dwellings are considered to be mitigated though; the positioning of the lower frontage and podium buildings, the greater setbacks and angled relationship of the taller building elements, window orientation, positioning of units, setbacks and building offsets, as well as the proposed additional boundary planting of Appeal B and provided through the Wheatcroft Amendments.</p>
<p>DM11 Efficient use of Land</p>	<p>The Appeal Site is considered to meet the exceptions provided for within DM11 which allows development at a density of more than 40du/ha. It is noted that the Council has not adopted a Site Allocations Policies Document; referred to in the first exception.</p> <p>The Appeal Site does accord with the second and third exceptions as the site enjoys good access to services, facilities and amenities via existing public transport, walking and cycling networks and, as per the evidence of Mr Williams and the details within the submitted HTVIA, the surrounding townscape has sufficient capacity to accommodate developments of higher density.</p> <p>It has been confirmed in the MEUL report that the Council's approach is to afford reduced weight to policy DM11, and to apply greater weight to national and local policies, which promote the efficient use of land. The Committee Report for Application A goes as far as to state, within paragraph 13.4 that Policies DM11 and DM13 have been "set aside", due to the policy restricting opportunities for growth.</p> <p>The Committee Report for Application B states, within paragraph 13.4 that less weight is given to Policies DM11 and DM13 and greater weight is given to policies that promote the efficient use of land and attribute greater weight towards the need to deliver additional homes.</p>

	<p>The Appeal Schemes are considered to be supported by DM11 and the guidance for decision makers set out in the MEUL report.</p>
<p>DM13 Building Heights</p>	<p>Policy DM13 notes that buildings higher than 12m will be inappropriate except the identified areas within the Epsom Town Centre Boundary (which does not include the Appeal Site).</p> <p>The LPA has, as is the case for DM11, advised that the Building Heights policy is to be afforded reduced weight in deference to national and local policies which promote the efficient use of land,</p> <p>It is considered justified to set aside the constraining (and arbitrary) 12m height restriction (to eaves / gutter height), in light of the Council's guidance within the MEUL report and furthermore as many buildings on and adjacent to the Appeal Site exceed this height. Woodcote Lodge is 18.4 m to ridge height (around 15 m to eaves height) and the fact that the hospital buildings adjacent to the site are 28m high (to inset building) and 24 m to the main hospital roof.</p> <p>It is considered that, once the specific height limit of DM13 is set aside, the Appeal Scheme does comply with the remainder of this policy, having taken into account:</p> <ul style="list-style-type: none"> • The character and context of the surrounding locality, particularly in relation to existing building heights and roofscapes • The impact on the streetscene and views • Conservation Areas • Listed buildings and the setting of listed buildings • Topography
<p>Policy DM5 Trees and Landscape</p>	<p>There are 47 trees growing on the Appeal Site, none of which are protected by way of TPO, it is proposed to remove 29 site trees; of which 11 are category U trees, 16 are Category C trees, and there are one Category A and Category B tree each.</p>

	<p>It is noted that the growing conditions of many of the site trees are compromised due to their planting in or adjacent to hardstanding or due to a lack of appropriate tree management.</p> <p>To compensate for the removal of the 29 trees on the Appeal Site, 113 additional trees are proposed to be planted on the Site.</p> <p>Tree protection measures, including ground protection and hoarding around trees would protect the retaining trees.</p> <p>The removal of the Category A and Category B trees are necessary due to their existing position and the significantly constraining effect on the development potential of the site.</p> <p>The existing trees along the street frontage are lower category trees, all being Category U and C trees, the existing trees appear to have been planted, purely to perform a screening function and are not considered to contribute to the street scene.</p> <p>The proposals entail the extensive replacement of removed trees with semi-mature trees replaced at the ratio of almost four new trees to each one removed. As set out in the Landscape DAS trees have been selected for their ecological value and native trees have been selected for the most part.</p> <p>It is clear that the development does not result in a significant loss of existing site trees and where trees have been removed, this has been justified, as set out in CS5 on the basis of tree health, public amenity or street scene.</p>
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The effect of the proposal on the living conditions of neighbouring residents: Reason for Refusal 3

4.32 The Appeal Scheme is considered to be consistent with Policy DM10(ix) which requires that development proposals should have regard to the amenities of

occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance;

- 4.33 A significant uplift in the overall quantum and scale of development across the site compared to the existing Site condition is necessary in order to deliver homes needed in the Borough and to meet the need for housing with care.

Sunlight and Daylight

- 4.34 It is noted that that the Decision Notices do not cite affects on sunlight and daylight within the reasons for refusal. This is consistent with the details set out in the Sunlight and Daylight assessment which was submitted with the application confirms a high level of compliance to the best practice guidance, demonstrating that the majority of neighbours will not be materially affected. It is recognised that the Appeal Scheme will result in effects beyond suggested BRE guideline levels on a small number of isolated areas, including the property at 46 Woodcote Green Road. The BRE itself advises that the numerical targets are not mandatory, should be applied sensibly and flexibly, and with careful consideration of specific local constraints
- 4.35 Paragraph 123 of the NPPF confirms that authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
- 4.36 Where more noticeable impacts have been identified, it is considered that there are reasonable contextual factors involved to advocate the use of alternative targets. Nevertheless, the more sensitive living areas will be dual aspect, such that the effects would be offset by mitigating light from other directions, or face away from the site entirely thus will be completely unaffected.
- 4.37 Sunlight and Daylight Assessments, CD 1.3.9 (Appeal A) and CD2.2.9 (Appeal B) were submitted in support of the Planning Applications. The Vertical Sky Component (VSC) and No Sky Line (NSL) assessments for adjacent properties have been undertaken to determine the Scheme's effect of the on daylight. The

Annual Probably Sunlight Hours (APSH) test has been undertaken in respect of potential effects on sunlight and an overshadowing assessment has been performed to confirm that adjacent gardens and amenity spaced receive adequate levels of sunlight.

4.38 The results of the VSC, NSL and APSH, in relation to both Appeal Schemes have shown that the following properties are fully compliant with the daylight and sunlight guidance:

- 44 Woodcote Green Road;
- 6 Digdens Rise
- 8 Digdens Rise;
- 10 Digdens Rise;
- 12 Digdens Rise;
- 14 Digdens Rise
- 16 Digdens Rise;
- 18 Digdens Rise;
- 20 Digdens Rise; and
- 22 Digdens Rise.

4.39 As the proposed buildings in Scheme B are lower than Scheme A and would show a betterment to the Appeal A effects, the details of the Appeal A Sunlight & Daylight Assessment are considered in this proof of evidence. I am satisfied that there are no areas where Scheme B results in an increased impact on Sunlight and Daylight.

4.40 In relation to 40 and 42 Woodcote Green Road, the assessment shows that 12 windows and 4 rooms in 40 and 42 Woodcote Green Road do not satisfy the BRE guidelines for VSC and NSL respectively. Further analysis has shown that two windows (in 42 Woodcote green Road) relate to secondary bay windows and the main central window satisfies the criteria. This left two windows in 40 Woodcote Green Road of concern, these windows are understood to serve a dual aspect kitchen, and accordingly the assessment has concluded that the room tested will satisfy the BRE guidelines for NSL, with virtually unaffected main living spaces.

In respect of Sunlight, the BRE guidelines do not require testing of 40 and 42 Woodcote Green Road as the key windows facing the site are not within 90° of due south.

- 4.41 In relation to 46 Woodcote Green Road, information received shows that around half of the windows facing the site serve non-habitable spaces and have been discounted from the assessment. Analysis indicates that 8 windows and 3 rooms do not satisfy the numerical targets of BRE guidelines for VSC and NSL, respectively, 3 windows and 2 rooms are understood to serve secondary/non-habitable space, the remaining room and associated windows show alterations in existing light levels between 26% and 46%. Of the 5 windows 1 appears to be to a single aspect kitchen, which will retain a VSC of 19% while the NLS indicates a retained view of the sky to around 65% of the room, this is considered reasonable taking the adjacent trees along the boundary. The additional windows are believed to serve a bedroom and living dining area, both dual aspect with additional windows in the front elevation and retaining very high levels of daylight, with full BRE compliance in respect of NSL and little or no perceptible change and virtually full daylight depth penetration.
- 4.42 In respect of sunlight to 46 Woodcote Green Road, the assessment concentrates on the 4 key windows facing the site and within 90° of due south. The results of these windows show full BRE adherence with very high levels of APSH.
- 4.43 In relation to 24 Digdens Rise, detailed analysis shows that all habitable rooms satisfy the BRE guidelines for VSC. The NSL test shows 1 room which does not meet the 20% reduction guidelines however this is due to the depth of the room and as it is lit from one aspect, the deviation is however a minor variation of 4% below the BRE guidelines. The assessment shows that NSL criteria would be met if the room depth was less extreme – and direct skylight will continue to be received to around 75% of its total area. In respect of Sunlight, the BRE guidelines do not require testing as the key windows facing the site are not within 90° of due south.

- 4.44 The external daylight and sunlight analysis of the neighbouring buildings has found that the majority of windows and rooms in adjacent properties tested will satisfy the BRE guidelines. While some effects have been identified to a number of windows and rooms of four adjacent properties, in the majority of cases the rooms affected are likely to be secondary/non-habitable space, or are dual-aspect rooms with mitigating light, such that the retained levels of light are considered acceptable.
- 4.45 Overshadowing assessments of surrounding garden spaces assessments confirms that all rear gardens tested will comfortably satisfy the BRE guidelines 50% area target and therefore, experience no significant material effects as a result of the Proposed Development.

Noise and Disturbance

- 4.46 The reasons for refusal do not cite noise impact, this is consistent with the submitted Environmental Noise Survey and Plant Noise Assessment which was provided with the Planning Applications, which confirms that the proposed plant, in conjunction with attenuation, is capable of achieving the required environmental noise levels at the nearest noise sensitive receptors.
- 4.47 While the noise impact of smoke extract fans is likely to fall within an observable adverse effect, these fans would be used in the event of a fire or need to vent the proposed building it is not considered to result in a significant adverse effect. A planning condition has been agreed which will mitigate any impact from testing smoke extract fans.
- 4.48 The existing site is largely utilised as a car parking area associated with the Epsom General Hospital. The Transport Assessment, confirms that the current use of the site attracts more vehicular movements than the Appeal Schemes. The open nature of the existing surface level parking area is furthermore considered to result in increased noise and disturbance, whereas the Appeal Schemes provides the bulk of the car parking within the building, which will provide a high level of screening to adjacent residents.

4.49 The proposed use of the property for housing with care will accommodate people in their later lives who are considered to be quiet occupiers, there are no large external balconies associated with the apartments adjacent to the residential area to the west of the site which will further reduce any noise effects from the Appeal Scheme. The quiet nature of the Appeal Scheme is considered to result in a material improvement over the existing activity levels and existing noise from the large surface level car park area.

Loss of Privacy

4.50 The Decision Notice refers to a loss of privacy in respect of 40 and 46 Woodcote Green Road. In their Statement of Case the LPA has now identified some effects to 14 to 28 Digdons Rise and 7 Hylands Road , which are also situated to the west and northwest of the Appeal Site.

4.51 The details set out in the Committee Report confirms that officers do not consider that the Appeal Schemes would significantly adversely impact the privacy at 40 and 46 Woodcote Green Road, given the design and angle of the proposed building, the separation distance and the locations of the retained and new trees to be planted.

4.52 The relationship of the Appeal Site to its neighbours, in terms of the separation distances achieved, the use of the intervening spaces and the orientation and use of adjoining accommodation is outlined on the drawings provided at (Appendix App/10).

4.53 The explanatory text to Policy Dm10 states, "as a general principle, we will encourage new developments to provide a distance of at least 21 metres of separation between opposing properties. Other measures, such as obscured glazing may also be appropriate."

4.54 Where the Appeal Scheme's buildings are within 21 metres of adjacent dwellings, the Appellant has designed the western elevation of the western building (also referred to as Building A in Planning Application Documents) in order to mitigate the effect on privacy of 40 and 46 Woodcote Green Road, being the two homes

closest to the Appeal Site. The Wheatcroft Amendments and the details of Appeal B introduce measures to the second floor podium level roof garden (the sensory garden) which screen the edge of the garden and prevent users of the garden approaching the edge of the garden, and therefore significantly reduce overlooking from this element of the Appeal Scheme.

- 4.55 Important elements of Planning Application B and the Wheatcroft Amendments to Appeal A are the changes to the part of the elevation of the west building where it is closest to 40 Woodcote Green Road and situated parallel to the common boundary. The changes serve to reorientate windows from west facing to north and south facing (i.e. towards the Woodcote Millennium Green and towards the Hospital site / new elements of the Appeal Scheme). The elevation changes also allow for high level windows, i.e. more than 1.7 m from floor level, which will allow light into the west facing windows, without allowing for overlooking towards the west from these windows.
- 4.56 It is noted that the upper levels of the taller elements of the Appeal Scheme are general situated more than 40 metres from the adjacent homes, in other words more than double the Council's 21 metre privacy guideline and therefore not considered to have a material effect on privacy.
- 4.57 The distance between the two and four storey elements of the western building to the dwelling at 46 Woodcote Green Road is 23 metres. The offset increases to 47 metres to the north and 38 metres to the east to the taller elements of the west building.
- 4.58 As set out in the overlooking study drawings (APP/10), the relationship of the Appeal Schemes to adjacent properties confirms setback distances in excess of 30 metres between the fourth floor elements of the west building and the principle elevations of the Digidens Rise properties and in excess of 48 metres in respect of the taller elements of the west building, these distances are substantially in excess of the Council's 21 metre guideline.

- 4.59 The provision of suitable landscaping is considered to provide further mitigation of overlooking concerns, most specifically in respect of the effects arising from the ground and first floor level of the Appeal Schemes. The landscaping scheme is proposed to be maintained for the lifetime of the Appeal Scheme through a management plan is proposed to be secured by condition or legal agreement.
- 4.60 Overall, by virtue of the distances achieved in the context of this urban development, and as a result of the mitigation proposed (in the form of the saw-tooth design, use of high level windows, the angled building and screening at the podium landscaped garden) it is my view that the overall impact of the Appeal Scheme to the occupants in 40 and 46 Woodcote Green Road and 14 to 28 Digidens Rise and 7 Hylands Road in terms privacy is acceptable.

Outlook

- 4.61 The proposed four storey element in the northwest corner of the Appeal Site is situated more than 30 metres from the rear elevation of the houses at 14 to 28 Digidens Rise, the distance to the taller elements of the Appeal Scheme increases to 47 to 59 metres (as set out in the overlooking study drawings attached as APP/10). The distance between the proposed development and the houses to the west of the site, along Digidens Rise is therefore considered to allow sufficient distance to mitigate the effects on the outlook from these properties. The western boundary of the site has a substantial row of trees, both on site and within the adjacent properties, which provides further screening to the properties to the west of the site.
- 4.62 The taller elements of the Appeal Schemes are positioned some 38 metres from the house at number 46 Woodcote Green Road. These substantial separation distances demonstrate that sufficient regard has been afforded to the outlook of the adjacent properties to the west of the site. It should be noted that 46 Woodcote Green Road has outlook towards the east, away from the site, which is unaffected by the Appeal Schemes.

- 4.63 40 Woodcote Green Road is orientated in a predominantly north and south direction. The length of the garden and the distance of the taller elements of the scheme, some 70 metres from the rear elevation of 40 Woodcote Green Road, ensure that the appeal scheme does not result in an adverse impact on the outlook from the dwelling. The Appeal Schemes will be visible adjacent to the lateral boundary of 40 Woodcote Green Road, there is however significant vegetation along the boundary which provides a degree of screening, additional landscaping will provide further screening. The manner in which the Appeal Scheme buildings angle away from the common boundary with 40 Woodcote Green Road, as the height of the scheme increases provides further mitigation from impacts on the outlook from this property.
- 4.64 The reduced height of Appeal B, which results in the roof level of the 2 to 5 storey elements being lowered by 1.7 metres and the height of the taller elements of buildings A and B have been brought down by 6 metres with an associated reduction in the habitable accommodation facing west. These reductions are considered to mitigate the effects on the outlook from the adjacent properties.
- 4.65 The lighter colour of the proposed materials proposed in the Wheatcroft Amendments to Appeal A and in the details of Appeal B is thought to represent a less dominant appearance which is considered to mitigate the effect on outlook from the adjacent properties.

Appropriate layout and access, including servicing

- 4.66 The Appeal Site is in a highly accessible location with good access by several modes of transport other than the private care. On Woodcote Green Road there are footways on both sides of the road which are well lit and there is a zebra crossing located opposite the site. There are several pedestrian crossing points along the A24 Dorking Road. The site is served by several bus stops on Dorking Road and Woodcote Green Road and the site is within walking and cycling distance of Epsom Station.

- 4.67 Access and egress to the site is proposed via separate entrance and exit points on Woodcote Green Road. Residents and visitors will drop their cars for parking by concierge within the structured parking element, or will park at ground level.
- 4.68 The site has been designed with pedestrian priority, with the bulk of the site being with vehicle-free. In recognition that some residents at the site may be unable to walk great distances, buggy/electric scooter storage and charging areas are to be provided.
- 4.69 Access for servicing, including refuse collection and commercial deliveries has been provided for within the scheme and suitable arrangements and appropriately located service collection points have been provided. Vehicle routes for larger service, and fire, vehicles have been tracked to ensure that vehicle access routes and turning areas are suitable.

Whether the proposal would make satisfactory provision for affordable housing and the infrastructure required to support the development.

Reason for Refusal 4

- 4.70 The fourth reason for refusal is based on the absence of a satisfactory legal agreement to secure affordable housing or a contribution. Both of the Appeal Schemes will deliver 24 units of affordable Key Worker accommodation, which will be operated by the St Kilda Trust for the benefit of NHS Key Workers. The Appeal Schemes re-provide the previous amount of affordable Key Worker accommodation, which was not secured in planning terms, i.e. through planning obligation. The Key Worker accommodation is to be secured by planning obligation.
- 4.71 Scheme A would also provide 21 units of affordable housing with care, alternatively the Appellant will provide an off-site financial contribution which the Council could use for offsite affordable housing provision through its own delivery mechanisms.
- 4.72 Scheme B would provide, a reduced affordable contribution to that of Appeal A, due to the smaller size of the scheme, in addition to the provision of Key Worker

Accommodation, this is in the form an off-site financial contribution to the Council for affordable housing.

- 4.73 The affordable housing contributions for the Planning Applications were determined following viability assessment, which showed that the contributions were all that could reasonable be provided through the Schemes. The Appellant is undertaking a revised viability assessment to take into account the changes to the Schemes and updated costs. This revised viability work may lead to an adjustment of the original offers
- 4.74 The Appellant has made substantial progress in the preparation of a legal agreement, in consultation with officers and the LPA's legal advisors. It is accordingly considered that Reason 4 can be overcome by a satisfactory legal agreement being completed.

The Public Benefits of the Scheme

- 4.75 In reaching their decision, it is my view that the LPA did not afford sufficient weight to the public benefits of the scheme as part of the overall planning balance (as required under NPPF paragraph 196). The officer's report to the planning committee also failed to provide sufficient detail on the weight to be considered in respect of heritage harm and the weight of the planning benefits, which are derived from the Appeal Scheme.
- 4.76 It has been agreed that there is a degree of less than substantial harm to various heritage assets. The evidence of Ms Warren and the submitted HTVIAs confirm that the harm falls at the low to negligible end of the less than substantial harm scale. Having identified the heritage assets and the category and amount of harm, it falls under the requirements of paragraph 196 of the NPPF to balance the public benefits of the scheme against the harm to heritage assets.
- 4.77 There are several public benefits which, taken together, are considered to demonstrate significant public benefits which demonstrably outweigh the harm to heritage assets. The public benefits are furthermore considered to support the

proposed use of the Appeal Site and contribute to the various strands of sustainable development set out in the NPPF.

- 4.78 The benefits of the Appeal Schemes are not considered to be identical. Scheme A has the ability to deliver a greater amount of housing, more units of extra care accommodation and additional affordable housing and provides for a greater economic and employment benefits. Where there is a difference in the benefits delivered by the respective schemes, these are detailed below.

Addressing a pressing need for Housing in EEBC

- 4.79 It is common ground between the parties that Epsom & Ewell Borough Council has a falling rate of housing delivery, declining significantly over the last three years, from 57% of requirements to 49% and ultimately down to 34% in 2020.
- 4.80 The Council is only able to demonstrate less than one-year supply of deliverable housing land, less than a fifth of the required amount. Accordingly any contribution to housing land supply should be afforded very significant weight as a result of the Council's very great shortfall.
- 4.81 The Council's main housing policy CS7 is agreed to be out of Date (Paragraph 6.15 of the SoCG), it has been shown above that various other policies such as CS8, CS9, DM10, DM11 and DM13 are either also out of date or inconsistent with the NPPF. The LPA's Local Plan Issues and Options consultation (APP/14) also confirms that several policies are out of date.
- 4.82 By virtue of paragraph 11(d) and its footnote 7 within the NPPF, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless the exceptions in paragraph 11(d) i. or ii. apply.
- 4.83 The aforementioned three considerations, 1) out of date housing policies, 2) delivery substantially below requirements and 3) a lack of sufficient housing land, triggers the "tilted balance"

- 4.84 Paragraph 11 (d) i is not engaged by this Appeal as the Appeal Site is not located in a protected areas and does not affect assets of particular importance set out under footnote 6, such as habitats sites, Sites of Special Scientific Interest; Green Belt, Local Green Space, Areas of Outstanding Natural Beauty, National Parks or defined as Heritage Coast.
- 4.85 The exception to the presumption for the grant of permission in Paragraph 11 (d) ii states: "*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole*" (i.e. the "tilted balance").
- 4.86 It is my opinion that there are no adverse impacts arising from the granting of these Appeals, which would significantly and demonstrably outweigh the benefits of the Appeal Schemes, and in particular the significant benefits towards housing delivery in the Borough which will be delivered through the Appeal Scheme.
- 4.87 Appeal A will deliver 325 units to meet the Council's unmet or nearby housing need and Appeal B will deliver 292 units (based on the Housing Delivery Test Rule Book methodology, also employed by the LPA in their Annual Monitoring Reports). This is a matter which the Council confirms attracts positive weight, in paragraph 28.7 and 11.36 of the Appeal B and Appeal B Committee Reports respectively. The fact that the proposed development is for people older than 65 years of age does not detract from the manifold benefits of delivering housing in the borough as well as the benefits of freeing up under-occupied family homes.
- 4.88 The evidence of Guild Living as well as that of Carterwood shows that most of the future residents of the scheme are expected to come from the local area, within 5 miles of the Appeal Site and indeed within the borough, accordingly the benefit of freeing up local homes will accrue to the EEBC area.
- 4.89 A significant knock-on benefit is that new residents moving into the new care community will generally release larger family homes back into the market, which is key to offering more options for families living locally. This principle was accepted in the allowed appeal for the former Hazeldens Nursery (Appeal Ref:

APP/D3830/W/19/3241644) (Refer Core Document CD 5.1). The ARCO report 'Planning for Retirement' (2020) (APP/16) states that a one-bedroom apartment in a retirement community frees up on average 2.25 bedrooms elsewhere. Recent research from Jones Laing Lasalle (APP/17) further suggests that the sale of a family home to facilitate a move into specialist accommodation for the elderly facilitates three further transactions further down the housing ladder.

4.90 It is noted that many of the surrounding authorities have deficits of Housing Land Supply or have not delivered the required number of new homes. The delivery of housing within EEBC will thus also have a positive effect on the provision of housing in the surrounding authorities.

Local Authority	5 YHLS	Housing delivery test result 2020
Mole Valley	3.15 years	81%
Elmbridge	3.13 year *	58%
Waverley	4.26	98%
Reigate and Banstead	8.92 years	120%
Kingston	2.7 years	87%
Sutton	6.7 years	150%

* It should be noted that the recently permitted Appeal, in Elmbridge (CD 5.3) for extra care accommodation contributes 209 units to local housing supply, and thus has made a significant contribution to housing in Elmbridge Borough Council.

4.91 The Council has a critical shortage of deliverable housing land and has significantly under-delivered against its housing need, with only 34% of the housing needs of the borough delivered over the last three years. With out of date housing policies, and the emerging local plan at a very early stage it is clear that the Council has no plan to boost the supply of housing per the national obligations set out in chapter 5 of the NPPF. The Appeal Schemes will both deliver a considerable number of units, which the Council agrees will contribute towards general housing need. In fact the Appeal Schemes will, from a single development, deliver a similar amount of housing that the Council has managed in the previous two years.

4.92 The delivery of housing within the Borough, is considered to carry significant weight of the highest order, which is afforded even greater emphasis due to chronic levels of under delivery of housing and five year housing supply situation, both of which are compounded by the Council's absence of up to date housing policies. It is not considered that the difference in the number of units delivered by the respective Appeal Schemes results in a material difference in the significant of the weight to be afforded to this scheme benefit.

Addressing a pressing need for Housing with care in EEBC

4.93 The elderly UK population is set to grow dramatically over the coming years. 10.2 million people aged over 65 currently live in England and the number of people aged over 75 is projected to double in the next 30 years. The number of people in the UK over 85 (those needing the highest level of care) is projected to grow faster than any other age group and by 2037 there are projected to be 1.42 million more such households in England.² The evidence of Mr Serginson provides more details on the anticipated age of the residents of the Appeal Schemes.

4.94 In policy terms, the NPPG defines the need to provide housing for older people as 'critical' and comments that *"Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems."* (Paragraph 001).

4.95 This position is reinforced at the local level. Policy DM21 states that permission will be granted for specialised forms of residential accommodation subject to the following requirements being met:

- That the application documentation includes clear and robust evidence that demonstrates that there is a need for the new accommodation; and
- The delivery of the new accommodation does not result in an over-provision of that particular type of accommodation; and

² ARCO: 'Planning for Retirement: How Retirement Communities can help meet the needs of our ageing population' (2020)

- The design of the proposal is demonstrated as being sufficiently flexible to readily accommodate conversion to other appropriate uses, either residential or non-residential, in the event that the need for the permitted use declines.

4.96 In support of this planning appeal, the Appellant has submitted an independent assessment of local demand and supply, prepared by market leading analysts Carterwood. The Assessment highlights a need (as at 2024) for 951 private extra care units within the 5-mile market catchment area and 523 units within the 3 mile sensitivity catchment. This shortfall is expected to increase to 1,137 and 590 units by 2031 due to the rising elderly demographic. The evidence of Carterwood confirms the 'critical' need within the catchment areas of the site, which reflects the NPPG guidance. A Housing with Care need update July 2021 is attached to my proof of evidence as Appendix APP/11)

4.97 Carterwood's Planning Need Assessment demonstrates that there is an acute lack of existing provision within the Council area and a shortage of planned supply in the Borough.

4.98 This position has been reinforced by the Council as part of the Appeal proceedings and the SoCG confirms agreement between the parties that there is an unmet need in the local area for additional extra care housing in the borough.

4.99 The benefits of addressing the shortage of specialist accommodation in the area are considered to carry significant weight in the determination of the Appeal schemes. It is not considered that the difference in the number of units of housing with care delivered by the respective Appeal Schemes results in a material difference in the significant of the weight to be afforded to this scheme benefit.

Improving wellbeing and social interaction, offering better health outcomes and reducing healthcare costs

4.100 The proposed care community on the Appeal Site will be the first of its kind in the local area and will be an exemplar in terms of the standard of facilities and in the provision of support and care. As evidenced in the proof of evidence prepared by Mr Serginson of Guild Living, are at the forefront of research in

developing the world's best practice in respect of dealing with ageing and tackling loneliness.

- 4.101 The proposed accommodation on Appeal Site will be fully designed with the needs of frailer older people in mind, and varying levels of care and support will be provided on-site. The Appeal Schemes will provide an extensive range of communal facilities which are to be managed and operated as an integral part of the care concept to encourage social interaction and the proposed care model includes a range of on-site nursing, personal and domestic care services. Further details are set out in the proof of evidence prepared by Mr Earwicker of Life 3A.
- 4.102 Recent research outlines the well-being benefits of living in a care community. This includes 'Future of an Ageing Population' prepared by the Government Office for Science (2016) which states that "*...residents of specialised housing generally show high levels of satisfaction, improved wellbeing, better health outcomes and reduced healthcare costs.*" Refer App/18
- 4.103 The Appeal Schemes also have the potential to reduce the costs to health and social services (including local GP practices) by providing specialist and dedicated in-house care and support and reducing the need for residents (who might have previously lived alone) to call on existing local services. Research by Aston University in 2015 and 2019 (CD 1.7.9, CD1.710 and Summary at CD1.7.11) showed that after one year in a care community visits to a GP by residents fell by 46% when compared to those made by over 85s living at home. Where GP visits are needed, the Appeal Schemes incorporate consultant rooms for use by local practitioners. The 2015 research published by Aston University showed that people living in care communities will spend 1-2 days in hospital per year. The average for older people living in their own homes is 8-14 days. Unplanned hospital admissions are also less than a quarter for those living in a care community compared to those living in their own homes. Similar findings from a report prepared by Housing LIN and Southampton City Council (August 2019) (refer to CD1.7.12) estimates that living in housing with care generates a health care system financial cost-benefit of £1,976.44 per person per year.

4.104 The financial and qualitative health care benefits associated with the proposed Housing with Care, for around 450 people are considered to carry significant weight in the determination of the Appeal schemes.

Supporting Sustainable Development

4.105 It has been agreed between the parties that the Appeal Site is situated in a highly sustainable location. The situation of the Appeal Site adjacent to the Hospital provides a synergy with the hospital. The Appeal Scheme site satisfies the locational and design objectives set out in the Development plan and NPPF / NPPG which directs new development towards well located areas within the built up area of the Borough. This approach is consistent with the Housing for older and disabled persons NPPG which states at paragraph 013 that: *"The location of housing is a key consideration for older people who may be considering whether to move (including moving to more suitable forms of accommodation). Factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres"*

4.106 It is common ground that location of the development within an urban area is an added benefit. It is also agreed that the Appeal Site is considered a highly sustainable location, located 0.6 miles from the designated Epsom Town Centre boundary (11-minute walk), 0.8 miles from the Ashley Shopping Centre (16-minute walk) and 0.9 miles from Epsom train station (18-minute walk). There are two bus stops located on Woodcote Green Road, a very short walking distance from the Appeal Site, as well as bus stops some 200 metres from the site on Dorking Road. Dorking Road has good access to the strategic highways network.

4.107 The Appeal Site also has good access to local pubs, restaurants, shops and recreational facilities, of which there is a good provision within 500 metres of the site.

4.108 As set out in the SoCG, there is agreement between the Appellant and the Council that the principle of developing the Appeal Site to provide a care community is appropriate in principle.

4.109 At the same time, the Appeal Schemes will incorporate ancillary facilities at ground floor level (including the restaurant and wellness centre) as well as commercial office floorspace that will promote activity and engagement. As referenced in the proof of evidence of Mr Serginson, these communal and support facilities will be made available for use by the local public.

4.110 A key benefit of the Appeal Schemes' design is to enhance public accessibility and improve the public realm between the Appeal Site and the hospital to the north. The new pedestrian and cycle route through the site will facilitate access by existing and prospective occupiers, and will provide a pleasant new landscaped environment and an improved connection to the Millennium Green. Details of this connection is set out in more detail in the Landscape Design and Access Statement supporting the planning application and within the Proof of Evidence prepared by Mr Earwicker.

4.111 The delivery of sustainable development benefits are considered to carry moderate weight in the determination of the Appeal scheme.

Providing Local Employment and Economic Development

4.112 The economic benefits of the Original Scheme are shown in the Economic Infographic provided to the LPA on 19/05/2020 (attached as Appendix APP/19). These figures have been updated to take into account the Wheatcroft Changes and Scheme B and the revised Scheme economic infographics and assessment methodology is attached as APP/20.

4.113 It is estimated that the construction phase of the Schemes would create or sustain 780 (Scheme A) or 661 (Scheme B) job years of employment in numerous sectors of the local and UK-wide economies. This employment activity would generate a £41.5 million (Scheme A) or £35.1 million (Scheme B) contribution to GDP. When operational, the scheme will contribute £26.9 million

(Scheme A) or £24.6 million (Scheme B) million gross value-added contribution to GDP.

4.114 The Appeal Scheme will also provide Additional Resident Spending of £10.8 million (Scheme A) or £9.7 million (Scheme B) additional resident household spending, of which, £2.9 and £2.6m additional resident spending respectively will be in local shops and services (per annum).

4.115 It is anticipated that Scheme A will create jobs for approximately 81 people total (60 direct FTE jobs and 21 indirect FTE jobs). Appeal B is likely to deliver 74 jobs, 55 direct FTE jobs and 19 indirect FTE jobs due to the reduced number of units.

4.116 The economic and job creation benefits of the scheme are considered to carry moderate weight in the determination of the Appeal scheme. Notwithstanding that Appeal A would deliver more jobs and a somewhat greater economic benefit, it is my opinion that Appeal B delivers benefits of a similar order which would also carry moderate weight.

Regenerating an Under-Utilised Brownfield Site

4.117 The Appeal Schemes are deliverable in the short-term and the Schemes therefore provide an opportunity to regenerate a windfall site and to create a new area of productive and attractive townscape as well as a much-improved relationship between the hospital and the residential area / millennium green.

4.118 Paragraph 118 of the NPPF states that substantial weight should be given to the value of using suitable brownfield land within settlement for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

4.119 The Appeal Site is previously development land, which is furthermore not being efficiently utilised; there are also areas of ground contamination on site, which will be remediated as direct consequence of the Appeal Schemes. It is agreed

between the parties that the requirements of Policy CS13, to protect the loss of community facilities, are met.

4.120 Accordingly, the benefits of using suitable brownfield land are considered to carry substantial weight in the determination of the Appeal schemes.

New High Quality Townscape

4.121 As set out in paragraphs 2.2 of the Committee reports, The Site comprises healthcare and accommodation buildings and surface level car parks, which are of poor quality, lacking any coherent masterplan.

4.122 The Appeal Schemes will improve the overall appearance, legibility and attractiveness of the Appeal Site by replacing the existing area of poor townscape quality with a new area of attractive townscape, with well-designed buildings, including an active pedestrian link through a new area of public realm on the Site between the Hospital to the north and the Millennium Green to the south. The Appeal Scheme provides significant landscaped spaces, and well-designed, attractive and healthy places.

4.123 A detailed assessment of the townscape effects of the Appeal Schemes are provided within the evidence of Mr Williams.

4.124 The benefits of delivering a significant area of new, high quality townscape is considered to carry substantial weight in the determination of the Appeal Scheme.

New High Quality Public Realm

4.125 The Appeal Site provides extensive areas of surface level parking, and does not provide any meaningful or attractive public spaces.

4.126 The Appeal Schemes will significantly enhance the quality and amenity of the public realm and local environment by providing new hard and soft landscaped amenity and social spaces for future residential occupiers and visitors to the Appeal Site. The Appeal Schemes provides a new public link through the site,

between the Hospital to the north and the Millennium Green to the south, as well as a new large plaza area within the site, and new public realm, with tree lined boulevard and seating areas along Woodcote Green Road.

4.127 A detailed assessment of the public realm and landscaping of the Appeal Schemes are provided within the evidence of Mr Earwicker.

4.128 The contributions to the publically accessible spaces on the Appeal Site are considered to deliver benefits of moderate weight in the consideration of the Appeal Schemes.

New Nursery for Key Workers

4.129 The Appeal Schemes proposes to deliver a children's nursery, of 40 spaces. children's nursery which complements the care community, offers an active ground floor use which will promote activity throughout the day and will create opportunities for inter-generational interaction.

4.130 The nursery will provide a valuable facility; the majority (80%) of the capacity will first be made available to NHS workers at the adjacent hospital site.

4.131 During the redesign of the Original Scheme, the Appellant considered removing the nursery from the scheme, as it was believed that members of the planning committee opposed this use based on parking concerns. However, in recognition of the benefits of the nursery, at the request of the planning committee, the nursery was reintroduced with the Scheme.

4.132 The benefits of the nursery to provide accessible childcare to key workers of the NHS, as well as an opportunity for different generations is considered to carry moderate weight in the determination of the Appeal.

Conclusion

4.133 The Appeal Scheme is thus considered to be in general accordance with the Development Plan when read as a whole. Where a degree of divergence with policy arises, such as in respect of townscape (DM9), height (DM13), and

elements of Design Requirements (DM10), these policies have either been determined by the LPA to carry reduced weight in consideration of their constraining effect on housing delivery, are inconsistent with the framework, or are out of date pursuant to the provisions of footnote 7 of paragraph 11 of the Framework. Where Scheme A are not consistent with policy DM9, there are countervailing benefits which are considered to balance the townscape and visual impacts.

4.134 The Council agrees that the main housing policies are out of date and that the Council cannot demonstrate a five year supply of housing land and are significantly under delivering against objectively assessed housing need. The Appeal Schemes will deliver significant benefits from the supply of housing and meeting the need for specialist housing.

4.135 The "tilted balance" applies to the Schemes; it has been shown that there are no material impacts of an order which would significantly and demonstrably outweigh the significant Scheme benefits. The Appeal Scheme furthermore delivers a range of public benefits to the application proposals, which taken together weigh significantly in favour of upholding this Appeal.

4.136 The Appeal Scheme, and in particular, height, mass, scale and design have been designed with careful consideration of the site context of and the site's relationship to listed buildings and the Chalk Lane Conservation Area. The materials selected have been discussed and principles agreed with design officers. In addition to the acceptable design of the Appeal Scheme, the significant public benefits which arise from the Appeal Scheme are considered to weigh in favour of the granting of planning permission.

4.137 The design of the appeal scheme has carefully considered the impact on the residential amenity of the properties to the west. Additional mitigation has been provide, through the Wheatcroft Amendments and the design of Scheme B which further reduces the effect on the adjacent properties over the Original scheme. It is considered that that the Appeal Scheme does not result in a significantly

adverse effect on adjacent properties, which would justify the refusal of planning permission.

5.0 Conditions and Planning Obligations

Conditions

- 5.1 A complete list of draft conditions for Appeal A and Appeal B have been included within the SoCG.

Section 106 Obligation

- 5.2 Reason for refusal 4 is are based on the absence of a satisfactory legal agreement to secure affordable housing.
- 5.3 Heads of terms were agreed with the Council prior to the Planning Committee meetings, and are listed in the Statement of Common Ground. A legal agreement will to secure the following:
- Employment and Skills Plan
 - Affordable Housing Provision
 - Car Club Provision
 - Provision of Bus Infrastructure
 - Woodcote Millennium Green maintenance contribution
 - Travel Plan
 - Allocation of nursery places for the NHS
- 5.4 The Appellant has made good progress in the preparation of a legal agreement, in consultation with officers and the LPA's legal advisors. The legal agreement is at an advanced stage and the principle heads of terms have been agreed. The Appellant has continued to engage with the LPA to progress the Section 106 Agreement and will continue to do so over the course of the Appeal with the view of reaching an agreement on the Section 106 agreement.
- 5.5 It is intended that a section 106 obligation will be agreed between the applicants and the Council and will be submitted to the Inquiry.

6.0 Summary and Conclusions

Introduction

6.1 My evidence is produced as a result of the decision of Epsom & Ewell Borough Council resolving to refuse planning permission for the application proposals at the meeting of the Planning Committee on 18 November 2020 and 22 April 2021.

Summary

6.2 The NPPF identifies at Paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. It also identifies at Paragraph 8 that there are three dimensions to sustainable development; economic, social and environmental factors.

6.3 The Appeal Schemes are in general accordance with the Development Plan when read as a whole, and that there are no adverse impacts which would significantly and demonstrably outweigh the significant benefits which are delivered by the Appeal Schemes. Indeed, the material considerations which are most relevant lend further support for the proposals. Therefore, in accordance with the presumption in favour of granting permission set out under Paragraph 11 of the NPPF, planning permission should be granted without delay.

6.4 The Appeal Schemes are encouraged and supported by the applicable strategic and development management policies. The Appeal Schemes will deliver 292 and 325 homes to the local housing need, and provides specialist housing units which meets the need for housing with care in the borough. The scheme delivers the benefits of a mix of new uses including a gym, restaurant, a café and fitness studio and provides a new pedestrianised public realm through the site.

6.5 The Appeal Schemes have been designed in consideration of heritage assets. The Appeal Scheme delivers significant public benefits including, the delivery of new housing, meeting the unmet need for purpose built housing with care for older people, new public realm, landscaping and ecology benefits. The Appeal Schemes

will create additional jobs, and deliver significant economic benefits. The Appeal Schemes will deliver healthcare and wellbeing benefits and an important childcare facility for the primary use of NHS key workers. The Appeal Scheme will deliver all of the aforementioned benefits on well-located brownfield land. It is my opinion that the significant public benefits of the Appeal Scheme outweigh the very limited heritage harm.

- 6.6 The Appeal Schemes will make a significant contribution towards meeting the existing unmet need (at 2024) for 951 units within the five-mile catchment of the Appeal Site and 523 units of extra care accommodation within 3 miles of the site. The scheme will provide accommodation for active elderly people with care support requirements, as an alternative to traditional nursing or residential care accommodation, allowing people to remain active in their own accommodation for longer.
- 6.7 The scheme will deliver significant improvements in the appearance, form, accessibility and function of the existing site, which will also benefit the surrounding area by creating new well-designed buildings and landscaped public realm. The new community facilities, including a children's nursery, which will be provided on the site, will provide a variety of uses, which will be accessible to the wider community, and residents of the retirement community.
- 6.8 The Appeal Schemes will significantly enhance the quality and amenity of the public realm by providing a high-quality set of new buildings, facilities and landscaped areas. It will provide new hard and soft landscaped amenity and social spaces for future residential occupiers and visitors to the Appeal Site, as well as community and retail facilities.
- 6.9 The Appeal Scheme will create additional jobs, both on the site and in the local area, and employees, as well as residents, will contribute to local economic activity
- 6.10 The proposed development maximises the use of a vacant brownfield site in close proximity to the Epsom town centre. The proposals have been sensitively designed in response to a detailed analysis of the site and local context, taking into account

the local character the role that the Appeal Site provides an appropriate transition between the Epsom Hospital to the north and adjacent the residential. The proposed development has evolved through extensive pre-application consultation with EEBC and workshops with key stakeholders and residents.

6.11 The application proposals represent an excellent opportunity to regenerate an unallocated, poorly performing brownfield site, with very significant public benefits in terms of the three pillars of sustainable development set out in the NPPF; social, economic and environmental benefit.

Conclusion

6.12 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts, then the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

6.13 The 'tilted balance' is to be applied in the determination of the appeal pursuant to paragraph 11 d) of the NPPF. In my evidence, I have set out where the proposed development accords or departs from the Development Plan and where policies are out of date and should be afforded reduced weight in the decision making process. The Appeal Schemes do not give rise to adverse impacts which significantly and demonstrably outweigh the raft of planning benefits created by the Appeal Scheme. Indeed, the material considerations, which are most relevant to the Appeal Schemes, lend further support for the proposals. Therefore, in accordance with Paragraph 11 of the NPPF, planning permission should be granted without delay.



Guild Living, Epsom General Hospital

Proof of Evidence of Tim Spencer

Application on behalf of Senior Living Urban (Epsom) Limited

July 2021

**Annexure A:
Glossary of Terms**

“Appeal A”	appeal against Decision A submitted to PINS on 29 March 2021 with reference APP/P3610/W/21/3272074
“Appeal B”	appeal against Decision B submitted to PINS on 4 June 2021 with reference APP/P3610/W/21/3276483
“Appeals” or “this Appeal”	the conjoined Appeal A and Appeal B
“Appeal Site”	Epsom General Hospital, Dorking Road, Epsom, Surrey, KT18 7EG
“Appellant”	Senior Living Urban (Epsom) Limited
“Council” or “LPA”	Epsom and Ewell Borough Council
“County Council”	Surrey County Council
“CQC”	Care Quality Commission
“Decision A”	Refusal notice dated 23 November 2020 issued by the Council in relation to Planning Application A
“Decision B”	Refusal notice dated 6 May 2021 issued by the Council in relation to Planning Application B
“Guild Living”	Developer and operator of urban later living schemes on behalf of L&G
“IV”	Inspired Villages
“L&G”	Legal and General
“LGC”	Legal and General Capital
“LGLL”	Legal and General Later Living Limited
“NPPF”	National Planning Policy Framework
“PPG”	Planning Practice Guidance
“Planning Application A”	Planning application reference 19/01722/FUL for Scheme A
“Planning Application B”	Planning application reference 21/00252/FUL for Scheme B
“Proposed Development”	the development proposed as Scheme A or Scheme B or both. This term is used where the comment being made applies equally to both Scheme A and Scheme B.
“Scheme A” (referred to in earlier documentation as the “Original Scheme”)	Demolition of the existing hospital buildings, accommodation block and associated structures and redevelopment of the site to provide a new care community for older people arranged in two buildings, comprising 301 care residences, 10 care apartments and 28 care suites providing transitional care, together with ancillary communal and support services Use Class C2, 24 key worker units Use Class C3, children’s nursery Use Class E, as well as associated back of house and service areas, car and cycle parking, altered vehicular and pedestrian access, landscaping, private amenity space and public open space (being an amended description agreed between the Appellant and the Council to reflect the Wheatcroft Amendments)
“Scheme B”	Demolition of the existing hospital buildings, accommodation block and associated structures and redevelopment of the site to provide a new care

	community for older people arranged in two buildings, comprising 267 care residences, 10 care apartments and 28 care suites providing transitional care, together with ancillary communal and support services Use Class C2, 24 key worker units Use Class C3, childrens nursery Use Class E, as well as associated back of house and service areas, car and cycle parking, altered vehicular and pedestrian access, landscaping, private amenity space and public open space
“the Schemes”	Scheme A and Scheme B
“S106 Agreement”	the agreement under section 106 of the Town and Country Planning Act 1990 to be entered into between (1) the Council (2) the County Council and (3) the Appellant which will accompany the planning permission granted pursuant to Appeal A or Appeal B
“Wheatcroft Amendments”	the changes to Scheme A accepted by the Inspector on 16 June 2021 under the “Wheatcroft” principle