

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

Statement of Case

on behalf of Senior Living Urban (Epsom) Limited

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

LPA reference: 21/00252/FUL

June 2021



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Appeal reference no: 35148 (Job Ref 35147)

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1.0 Introduction

- 1.1 This Statement of Case is provided in support of an appeal against the decision of Epsom & Ewell Borough Council (the LPA) to refuse planning permission (refer to Appendix APP/1 for a copy of the Decision Notice) (the Appeal) for a development comprising

“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.”

- 1.2 The appeal is lodged on behalf of Senior Living Urban (Epsom) Limited (the Appellant). The site is owned by the Appellant and the St Kilda Trust. Guild Living is the developer and operator through which Legal and General (L&G) is delivering its urban later living schemes across the UK. The Appellant is the development company which has been established to deliver the Appeal Scheme on behalf of Legal and General.
- 1.3 The site is situated on land formerly comprising part of the Epsom General Hospital, Dorking Road, Epsom, Surrey, KT18 7EG (the Appeal Site).
- 1.4 The Appellant is lodging this appeal because it considers that the LPA made the wrong decision in refusing planning permission for the Appeal Scheme. The Appellant’s position, which is supported by the details set out in the Committee Report, (refer to Appendix APP/2, APP/2A, APP/2B and APP/2C) is that:
- The ‘tilted balance’ applies to the Appeal Scheme and there are no adverse impacts which would arise from the grant of permission for the Appeal Scheme which would significantly and demonstrably outweigh the benefits. This was recognised by the LPA case officers before the LPA’s Planning Committee determined to refuse the proposal;
 - The planning committee has applied disproportionate weight to out of date and constraining policies of the Development Plan, which is against the guidance provided by the LPA’s Licensing

and Planning Committee in their 2018 report *"Making Efficient Use of Land - Optimising Housing Delivery"* (refer to Appendix APP/3 for a copy of this report);

- The Appeal Scheme is of high quality, in terms of appearance, enhancements to landscaping and public realm, quality of accommodation, the mix of and size of units and the creation of a care community designed to promote health and wellbeing;
- The townscape, landscaping and amenity concerns cited in the reasons for refusal do not significantly and demonstrably outweigh the housing delivery and manifold other benefits arising from the Appeal Scheme;
- There are a wide range of material planning considerations to which positive weight should be afforded which demonstrate that planning permission should be granted. These include:
 - a. Contributing towards the local five-year housing supply and the housing targets for the Epsom and Ewell Borough.
 - b. Addressing the need for specialist accommodation for older people within the Epsom & Ewell Borough and the market catchment of the Appeal Scheme.
 - c. Providing housing choice for older people of various forms and tenures.
 - d. Delivering an exemplar scheme in terms of the design quality, landscaping and standard of facilities and in the provision of support and care.
 - e. Improving wellbeing and social interaction, offering better health outcomes and reducing healthcare costs.
 - f. Reducing loneliness and isolation within the elderly community.
 - g. Integrating care facilities into the local community through the shared use of services and the accessible nature of the Appeal Site to the local community.
 - h. Supporting local hospitals through the provision of accommodation which is suitable for transitional care and step-down services.
 - i. Providing modern, purpose-built key worker accommodation for doctors and nurses working for the NHS.
 - j. Freeing up other sectors and improving affordability in the housing market by releasing much-needed family housing accommodation.
 - k. Creating significant local employment opportunities both through construction and operation of the housing with care scheme, the proposed nursery and ancillary uses.

- l. Supporting the creation of a mixed and balanced community that addresses inter-generational needs and aspirations
- m. Regenerating a currently underutilised site and optimising the use of the land to create a new area of productive and attractive townscape.
- n. Fulfilling the social, economic and environmental strands to sustainable development as set out in the NPPF and the local development plan.

1.5 The Appeal Scheme, when considered against the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, and Section 70(2) of the Town and Country Planning Act 1990, is consistent with the Development Plan, and taking into account the directives of paragraph 11(d) of the NPPF, there are no material considerations which significantly and demonstrably outweigh the benefits of granting permission, when assessing the Appeal Scheme against the policies of the Framework as a whole.

1.6 The Appellant's position is therefore that planning permission should be granted at Appeal for the Appeal Scheme.

2.0 The Appeal Site and its planning history

The Appeal Site

- 2.1 The Appeal Site covers an area of 1.5 hectares (3.7 acres) as shown by the red boundary line on the site plan (drawing EPS001-MPI-XX-ZZ-DR-A-00-001).
- 2.2 The Appeal Site is located to the north of Woodcote Green Road and was formerly used by the Epsom & St Helier NHS Trust for a variety of uses associated with the wider Epsom General Hospital including:
- A large four storey brick building with pitched roof occupying the frontage to Woodcote Green Road (Rowan House);
 - A three-storey residential block with pitched roof previously providing doctors' and nurses' accommodation (Woodcote Lodge);
 - A two storey (former dwelling house) later used for a research facility (York House);
 - A single storey laundry building and other ancillary buildings and structures;
 - A boiler house with its associated chimney stack [equivalent of 10 storeys];
 - The site of a demolished temporary building used for medical research purposes (Beacon Ward); and
 - The site of a demolished four-storey apartment block formerly used by NHS staff.
- 2.3 The buildings on the Appeal Site were vacated in November 2020, and the NHS has continued to use some of the parking on the Appeal Site, under license. The Appellant obtained Prior Approval on 12 October 2020 (Refer Appendix APP/4 for a copy of the decision notice for LPA Application No: 20/01322/DEM), for the demolition of all of the existing buildings and structures on the site. To date Beacon Ward (a single storey 538 m² building) has been demolished, while the other buildings currently remain on the site. Works have been undertaken to remove asbestos containing materials and roof coverings from Rowan House and Woodcote Lodge, however, apart from the demolition of Beacon Ward, no material commencement of demolition works have been undertaken in respect of the existing site buildings.
- 2.4 The Appeal Site is situated to the north of Woodcote Green Road and displays an irregular shape. The retained hospital campus wraps around the north and east of the Appeal Site. Residential properties, which flank only one side of the Appeal Site, are situated to the west. The area to the

south of the Appeal Site comprises an area of open space and woodland, known as the Woodcote Millennium Green.

2.5 The existing access into the Appeal Site is directly from Woodcote Green Road, from an access point between Rowan House and Woodcote Lodge. To the east of the Appeal Site, the separate, one way, access leading to the retained Hospital is to remain, and is not affected by the proposals.

2.6 There is very limited existing vegetation within the majority of the Appeal Site. There are, however, several large mature trees along the boundary of the northwest corner of the Appeal Site. There are further (smaller) trees along the frontage with Woodcote Green Road.

2.7 An extract from the submitted site location plan is below:

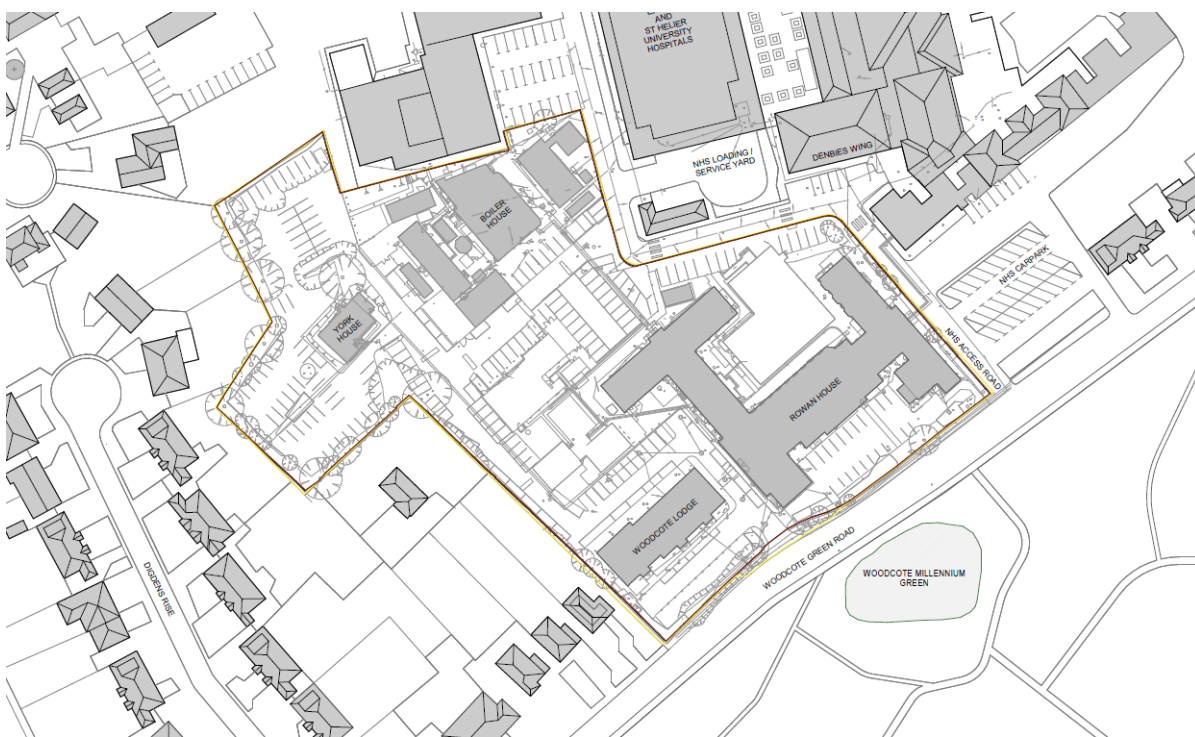


Figure 1: The location of the Appeal Site

2.8 The Appeal Site occupies a highly sustainable position within the main settlement of Epsom. The Appeal site is located within 800 metres of Epsom town centre, to the north. Access to the M25 (Junction 9) is two miles to the south west of the Appeal Site.

- 2.9 The Appeal Site is well served by public transport, with bus stops adjacent to the Appeal Site and on Dorking Road, and is approximately 1km from Epsom railway station. There are also a number of pedestrian and cycle routes serving the Appeal Site; Woodcote Green Road is a designated cycle route, and a pedestrian link (Madans Walk) connects Woodcote Green Road to the Town Centre.
- 2.10 A zebra crossing is located to the South of the Appeal Site on Woodcote Green Road and provides a pedestrian connection between the Appeal Site and the Woodcote Millennium Green to the south.

Surrounding Area

- 2.11 The uses in the area surrounding the Appeal Site comprise the following:
- To the south of the Appeal Site is an area of open space and woodland known as the Woodcote Millennium Green. Further to the south is the private Woodcote Estate comprising large, detached dwellings.
 - To the west of the Appeal Site are a mix of two-storey detached and semi-detached dwellings, situated along Woodcote Green Road, Digidens Rise and Hylands Road.
 - To the north and east of the Appeal Site is the retained hospital site, which will remain in operation. The hospital buildings range in style, age, quality and height. The tallest building (the Wells building), positioned immediately to the north of the subject site, rises to an overall height equivalent to 8 storeys (inclusive of smaller inset portions of the building, which rise an equivalent of 2 storeys above the main roof level).

Policy Designations

- 2.12 The LPA's policies map designates the Appeal Site as being located within the "Built-up Area". The Appeal Site is free of other planning designations and is not allocated for any specific development purpose or use. Other designations which relate to the site are shown on the extract of the policies map below. These include:
- The open space to the south east of the Appeal Site (beyond Woodcote Green Road) forms a designated 'Park and Open Space' the eastern section of which is subject to a tree preservation order.
 - Woodcote Green Road is identified as a designated cycle route (blue line).

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- An aerial map of the Woodcote area in London. The map shows a network of roads including the A24 (top left), Woodcote Green Road (diagonal), Digdens Rise (bottom left), and Chantry Hurst (bottom right). A large, light-colored building complex is labeled 'Hospl' (Hospital). Several green spaces are visible, including a large one at the bottom center and smaller ones along the roads. A red outline highlights a specific area of interest, which appears to be a residential or commercial development. The map also shows various other buildings, trees, and a small pond.

Planning history

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- 2.14 Prior Approval was granted in 2020 in respect of the demolition of all buildings and structures on the Appeal Site (Ref. No: 20/01322/DEM).
- 2.15 On 23 November 2020 a full planning application (19/01722/FUL) was refused for a scheme by Senior Living Urban (Epsom) Limited on this same Appeal Site, comprising 336 to 350 units of care accommodation, 24 units of Key Worker Accommodation, a children's day nursery, and associated communal facilities, landscaping, parking, accesses (vehicular and pedestrian), public realm, bicycle stores and sub-station following demolition of existing buildings. The decision to refuse was made by the planning committee on 18 November 2020, against Planning Officers' recommendation for approval. The 19/01722/FUL refusal is now subject of an appeal by Senior Living Urban (Epsom) Limited, as submitted on 29 March 2021 (PINS Ref: APP/P3610/W/21/3272074).
- 2.16 Application no. 21/00252/FUL (the subject of this appeal) updated the previously refused scheme (Application Ref. 19/01722/FUL) in order to address the reasons for the refusal. The reasons for refusal in relation to application no. 19/01722/FUL are identical in substance to those cited for the current 21/00252/FUL (This Appeal) scheme.
- 2.17 The planning history is set out in full within Appendix APP/5 of this Statement.

Other relevant Planning Application and Appeal Decisions

- 2.18 The Appellant considers the following planning decisions for other recent schemes in the Epsom & Ewell Borough Council area to be relevant to the determination of this Appeal insofar as they relate to specialist accommodation for older people and matters relating to design, height, massing and townscape impact. These may be referred to by the Appellant in their planning evidence to follow. Please refer to Appendix APP/6A to APP/6D.
- a) Lower Mill Kingston Road Ewell Surrey KT17 2AH (Application Ref: 18/00743/FUL);
 - b) Hudson House (Application Ref: 04/01057/FUL);
 - c) Woodcote Grove Ashley Road Epsom Surrey KT18 5BW (Application Ref: 19/00999/FUL); and
 - d) Salesian College Sports Ground Old Schools Lane Ewell Surrey KT17 1TJ, (Application Ref: 15/00845/FUL).

3.0 The Appeal Scheme, the planning application and the reasons for refusal

The Appeal Scheme

- 3.1 The Appeal Scheme consists of a new care community comprising 305 units of extra care accommodation for older people, falling within Use Class C2 and including the following elements:
- 267 Guild Living Residences for sale or rental, together with integrated nursing care (Use Class C2).
 - 38 Guild Care Residences and Suites with access to 24 hour nursing care (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. 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 167 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 (which could also function as a public event space)
- 3.2 For the purposes of describing the arrangement of the two buildings comprising the Appeal Scheme, Building A is the building on the west side of the Appeal Site, Building B is the building on the east side of the Appeal Site.

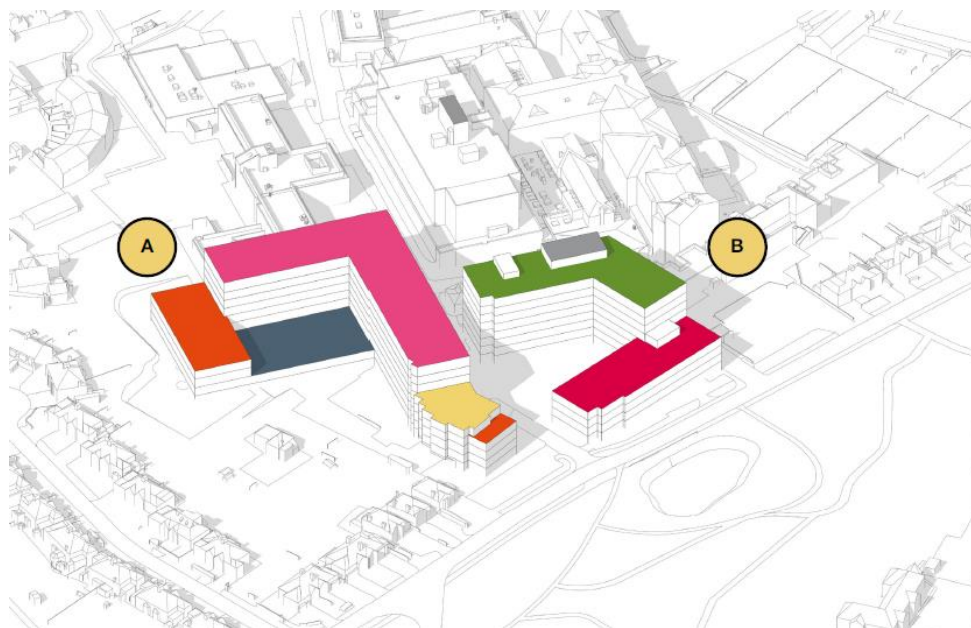


Figure 3. Proposed Building A and Building B

- 3.3 Please refer to Appendix APP/7 (the Schedule of Application Drawings and Supporting Application Documents) for further details of the Appeal Scheme.
- 3.4 Apart from the 24 no. key worker/staff (affordable) accommodation apartments (which fall under Use Class C3) and the Children's nursery (which falls under Use Class E), the whole Appeal Scheme is categorised as an 'Extra Care' scheme with the care accommodation and ancillary facilities and uses falling within Use Class C2. The design and operational principles for the care community are outlined in further detail in Chapter 5 of the Planning Statement and, based on these, it meets the widely accepted Extra Care categorisation. Whilst the Appellant prefers the terminology of a 'care community' containing individual care residences and care suites, this terminology of 'extra care' and 'assisted living' can be used inter-changeably and is a useful grouping when considering the need for the Appeal Scheme.
- 3.5 The proposed accommodation provides an alternative to traditional 'Residential or Nursing Care' within a registered care home or 'Sheltered accommodation'. The Residences within the Appeal Scheme will provide an opportunity for older people to live independently in self-contained accommodation while having access to 24-hour on-site care and a range of community and shared facilities. The Care Suites will enable a higher level of care either on a temporary or ongoing basis,

through specially designed suites, which are located together to facilitate the higher care needs of residents of this element of the Appeal Scheme.

- 3.6 The Appeal Scheme provides a children's nursery which complements the care community, offering an active ground floor use which will promote activity throughout the day and will create opportunities for inter-generational interaction. 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. The nursery will also provide childcare spaces for Guild Living employees at the Appeal Site and the local community.
- 3.7 The Appeal Scheme also provides 24 units of Key Worker Accommodation, which is to be set at an affordable rent level and provided to staff employed by the NHS.

Guild Living Residences

- 3.8 The Residences (267 no.) offer a housing alternative (to institutionalised (nursing or residential) care home and sheltered accommodation) for independent active older people who are seeking "care security" and a continuum of care. These people are typically seeking to downsize to their own self-contained apartment, with care and 24/7 on-site professional care and support and activation programmes.
- 3.9 Each of the Residences vary in layout and size including 1-bedroom, 2-bedroom and 3-bedroom options. The Residences are to be finished to a very high standard and are designed to suit those requiring care and support. The Residences can be adapted to meet full wheelchair (M4(3)) standards and the increasing care needs of residents. However, as the care needs of residents increase beyond a certain level, the accommodation and care provided in the Care Suites or Care Residences may become more suitable.
- 3.10 Residences are to be available to purchase (long term lease) or for market rental (tenancy agreement). The rental option offers a viable solution for some people who may not otherwise be able to afford to purchase a unit of accommodation.
- 3.11 At least one person within each of the Residences will be required to be a minimum of 65 years old, require personal care support; and sign up to a minimum care package. The details of these

requirements will be controlled by planning obligations, which will be set out in the Section 106 Agreement, a draft of which accompanies this Statement of Case (APP/8).

Guild Care Suites and Care Residences

- 3.12 The Care Suites (28 no.) and Care Residences (10 no.) provide a place to live where residents have access to 24-hour nursing, personal and dementia care. Care providers will be registered with the Care Quality Commission (CQC) and support will be tailored to personalised needs in an environment that offers versatile living.
- 3.13 Care Suites are typically approximately 26 sqm in size and comprise a bedroom area and en-suite facilities, with meals either provided into the units or residents taking meals in communal dining areas. The Care Residences are typically approximately 46 sqm in size and include a living area and kitchenette.
- 3.14 The Care Suites provide accommodation for residents requiring higher levels of care, such as nursing or dementia care, which is less practical and efficient to provide within the Guild Living Residences. As such they allow for a continuing pathway of care for all Guild residents within the care community. The Care Suites also offer flexible accommodation, including temporary stays for occupants of the Guild Living Residences or the Care Residences who may need a higher level of specialist care for a short period and allow for partners who develop significantly divergent care needs to remain in residence within the same development. They also provide a local 'step down' and reablement service enabling hospital teams to transition residents into a more homely environment on their pathway to returning home.
- 3.15 The Care Suites and Care Residences would be offered on an assured short term tenancy basis and would be available for occupation by either occupants of the Guild Living Residences or to the broader public.
- 3.16 Further details of the accommodation unit types are set out in in the Appellant's Operator Statement and the Design and Access Statement, which accompanied the planning application.

Ancillary Uses

- 3.17 The care community provides a mix of uses to provide for the main needs of the residents. The majority of these uses are located at ground floor level, and several of these uses will be made available to the public.
- 3.18 Guild Living schemes are designed to encourage engagement, fostering intergenerational interaction, with the wider external public. Communal facilities and public spaces play an important role in the socialisation of the residents of the community. The communal facilities set out in 3.17 above, the new public spaces and pedestrian routes within the Appeal Scheme are arranged around the new central courtyard and pedestrian link to the hospital (to the north). These areas provide opportunities to encourage engagement among residents of the community, visitors and staff to the hospital and the wider community, thereby bringing together older and younger members of the community.

Affordable Housing

- 3.19 The Appeal Scheme provides 24 units of affordable housing, provided in the form of Key Worker Accommodation, with rents capped at 80% of market rates, which complies with the LPA's Developer Contribution SPD (2014). The occupation of these units is also to be restricted to staff employed by the NHS.
- 3.20 The affordable housing provision will be secured by planning obligations, which will be set out in the Section 106 Agreement, a draft of which accompanies this Statement of Case (Appendix APP/8).

Pre-Application Discussions

- 3.21 Prior to submission of the planning application on 8 February 2021, the Appellant entered into a Planning Performance Agreement (PPA). The Appellant engaged with the LPA in pre-application discussions, the focus of these discussions were the resolution of the matters which formed the reasons for the refusal of the previous application (Ref: 19/01722/FUL) set out within the Decision Notice dated 23/11/2020. Two pre-application meetings were held on the following dates.
- 17 December 2020 (a copy of this presentation is included as Appendix APP/9A).
 - 6 January 2021 (a copy of this presentation is included as Appendix APP/9B).

- 3.22 Several changes were made to the design of the scheme, to reduce the height and massing of the proposed buildings throughout. The siting of the buildings were amended to substantially increase the setback from Woodcote Green Road. The landscaping details were updated, particularly along Woodcote Green Road, but also along the western boundary of the site. The materials palette was updated to reduce the amount of metal cladding, to increase the amount of brick proposed and to change the colour of the metal cladding from grey to bronze.
- 3.23 The Appellant engaged with the public via a virtual consultation event on 13 January 2021, the details of which are contained within the Statement of Community Involvement which accompanied the planning application (a copy of this presentation is included as Appendix APP/10).
- 3.24 The details of the updated design and how these address the reasons for the refusal of Application 19/01722/Ful are set out in the Design and Access Statement and Planning Statement, which accompanied the planning application.
- 3.25 Prior to the submission of the application in February 2021, the Appellant engaged with the Planning Committee on 7 January 2021 to present the Appeal Scheme and to answer questions thereon (a copy of this presentation is included as Appendix APP/11).
- 3.26 As per application no. 19/01722/FUL the design, massing and scale of the Appeal Scheme has received the overall support of the LPA's design officers, subject to materials and elevation details to be secured by planning condition. The report to the planning committee cited no notable design related objections in the officer's assessment of the updated application, subject to conditions to enable the details of materials to be agreed.
- 3.27 The comments from design officers, which are summarised in the report to the planning committee (APP/2), confirm that "the reduction of some elements of the development's height have significantly reduced [the views to distant listed buildings]". Design officers acknowledge that the height of the buildings has been reduced significantly, that there are no important heritage assets within close proximity to the building. Further details on materials, elevation details and landscaping were required to be secured by planning condition.

The Planning Application

- 3.28 An application for full planning permission was submitted to the LPA on 8 February 2021 and validated by the LPA on 23 February 2021. The description of the development 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..”

- 3.29 The application was supported by a full range of technical reports, copies are provided with this Appeal and are listed under Appendix APP/7. The technical reports provided in support of the application and provided as part of this Appeal confirm that there are no technical constraints or impediments to the grant of permission for the Appeal Scheme.
- 3.30 The LPA’s planning officers considered the application together with consultation responses received from relevant specialist officers, external consultees and local residents and concluded that planning permission should be granted. This is reflected in a report to the Planning Committee which is at Appendix APP/2.
- 3.31 During the course of the application the LPA consulted various statutory authorities and internal technical branches, apart from an objection from the LPA’s tree officer, all other statutory authorities and internal technical branches have confirmed that permission should be granted, subject to the imposition of various conditions.

The reasons for refusal

- 3.32 The LPA’s planning officer’s report, and update reports, to the Planning Committee (dated 22 April 2021) (APP/2, APP/2A, APP/2B, and APP/2C) recommended that planning permission be granted in accordance with planning conditions and subject to a Section 106 Agreement being concluded.

3.33 The Planning Committee resolved to overturn the recommendation at paragraph 30 of the Committee Report and resolved to refuse the application for the following four reasons (which are set out in the Decision notice attached as Appendix APP/1):

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 the NPPF (2019)

Section 106 Obligations

3.34 The Appellant had agreed the Heads of Terms for a Section 106 Agreement with the LPA in the period leading up the Planning Committee, and had agreed Heads of Terms. It is the Appellant's intention to complete a Section 106 Agreement prior to a decision being made in respect of this Appeal, which

will address the reason for refusal set out under point 4 above. A copy of the draft Section 106 agreement accompanies this appeal at Appendix APP/8.

4.0 Relevant planning policy and guidance

- 4.1 The National Planning Policy Framework June 2019 (NPPF) sets out the Government's current planning policies for England and how these should be applied for plan making and taking decisions.
- 4.2 Paragraphs 10 and 11 of the Framework set out a presumption in favour of sustainable development. The planning system has three overarching objectives to achieve sustainable development, which are interdependent but need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a. An economic objective
 - b. A social objective
 - c. An environmental objective
- 4.3 Paragraph 61 provides the overarching objective in promoting housing choice stating that *'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including older people'* as defined in the NPPF as *'people over or approaching retirement age, including the active, newly retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs'*.
- 4.4 Paragraph 118 promotes and supports the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, as is particularly the case in Epsom & Ewell.
- 4.5 Paragraph 121 encourages authorities to take a positive approach in determining planning applications for alternative uses of land which are currently developed but not allocated for a specific purpose in plans, where this would help meet identified development needs.
- 4.6 Paragraph 122 supports development that makes efficient use of land, taking into account the need for different types of housing, as well as market conditions and viability, the promotion of sustainable travel, the desirability of maintaining prevailing character and setting, promoting regeneration and change and securing well-designed, attractive and healthy places.

- 4.7 Paragraph 123 requires that, in areas where there is a shortage of land, as is the case in Epsom & Ewell, developments make optimal use of the potential of each site.
- 4.8 Paragraph 124 encourages the creation of high-quality buildings and places, stating that: *'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*.
- 4.9 Paragraph 127 states that developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping (criterion b), sympathetic to local character and history (criterion c), establish or maintain a strong sense of place (criterion d) and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (criterion f).

National Planning Policy Guidance

- 4.10 The National Planning Policy Framework is supported by Planning Practice Guidance (PPG): Housing for older and disabled people (26 June 2019). The PPG specifically addresses the need for older people's accommodation. The need to provide housing for older people is described in the PPG as *'critical'* as people are living longer lives and the proportion of older people in the population is increasing.
- 4.11 In assessing how local authorities should address the need for older person's housing, the PPG states 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).

- 4.12 The PPG confirms that *"Providing suitable housing can enable disabled people to live more independently and safely, with greater choice and control over their lives."* (Paragraph 002).
- 4.13 The PPG further requires, '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).
- 4.14 Having regard to local housing supply, the PPG categorically states that 'plan-making authorities will need to count housing provided for older people against their housing requirement' (Paragraph 016a).

The Development Plan

- 4.15 Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant Local Development Plan against which the appeal proposals are to be considered comprises the following documents:
- The Epsom and Ewell Core Strategy (2007) (attached as Appendix APP/12); and
 - The Epsom and Ewell Development Management Policies (2016) (attached as Appendix APP/13).
- 4.16 The list of relevant Local Plan policies is set out in the Planning Statement which was submitted in support of the planning application. The main policies relevant to the Appeal are listed below:-
- The Epsom and Ewell Core Strategy (2007)
 - Policy CS1 – Sustainability
 - Policy CS3 - Biodiversity
 - Policy CS4 - Open Spaces
 - **Policy CS5 - The Built Environment**
 - Policy CS6 - Sustainability in New Developments
 - Policy CS7 - Housing Need
 - Policy CS8 - Housing Delivery
 - **Policy CS9 - Affordable Housing**

- Policy CS10 – Employment provision
- Policy CS12 - Infrastructure
- Policy CS13 - Community facilities
- Policy CS14 – Supporting Epsom Town Centre and Local Centres
- Policy CS16 - Managing transport and travel
- The Epsom and Ewell Development Management Policies (2016)
 - Policy DM4 - Biodiversity
 - **Policy DM5 - Trees and landscape**
 - Policy DM6 - Open space provision
 - Policy DM7 - Footpath, cycle and bridleway network
 - Policy DM8 - Heritage assets
 - **Policy DM9 - Townscape character and local distinctiveness**
 - **Policy DM10 - Design requirements**
 - **Policy DM11 - Housing Density**
 - Policy DM12 - Housing standards
 - Policy DM17 – Contaminated land
 - Policy DM19 - Development and flood risk
 - Policy DM21 - Housing needs
 - Policy DM22 – Housing mix
 - Policy DM24 – Employment uses outside of existing employment policy areas
 - Policy DM31 – safeguarding small-scale retail provision
 - Policy DM34 - New social infrastructure
 - Policy DM35 - Transport and New Development
 - Policy DM36 - Sustainable transport.

4.17 Those Development Plan policies cited by the Local Planning Authority in its reasons for refusal are highlighted in bold. Copies of these policies are provided at Appendix APP/14.

Other Material Considerations

4.18 Relevant supplementary planning guidance includes the Revised Developer Contributions Supplementary Planning Document (2014).

- 4.19 On 8 May 2018 the LPA's Licensing & Planning Policy Committee considered a report entitled *"Making the Efficient Use of Land – Optimising Housing Delivery"* (which is attached as Appendix APP/3). The report reviewed the status of Policy DM11 (Density) and Policy DM13 (Building Heights), as these policies had the effect of restricting opportunities for growth in the borough and were not consistent with the NPPF. The LPA resolved to adopt a new approach to guide decision makers when considering planning applications involving changes in use, higher densities and taller buildings.
- 4.20 The updated approach set out in *'Making the Efficient Use of Land – Optimising Housing Delivery 2018'*, confirms in paragraph 3.1 that housing should be fully optimised and that this is likely to result in higher densities and taller buildings. Paragraph 3.2 directs decision makers to attribute weight to the wider national and local material planning considerations when assessing residential development schemes against current local adopted policy to ensure sound and balanced decisions. Paragraph 3.3 states that *"when reaching a balanced decision greater weight may be (sic) attributed to the need to deliver new homes and subject to conformity with other relevant policies. For example, this may result in development that exceeds the density and / or height parameters of Policy DM11, Policy DM13 and Plan E Policy E7."*

The emerging Local Plan

- 4.21 The LPA commenced work on a Local Plan in 2017, but it is still at a very early stage. The Regulation 18 Consultation was scheduled for 2020 but has not yet occurred. In accordance with paragraph 48 of the NPPF, very limited weight would be placed on the emerging plan policies or draft allocations.

5.0 Aspects of the planning benefits of the scheme

5.1 The Appellant strongly contends that permission should be granted for the Appeal Scheme considering:

- The “tilted balance” pursuant to paragraph 11d (and footnote 7) of the NPPF which is engaged due to the LPA’s 0.98 years supply of housing land and the LPA’s delivery of only 34% of its housing requirement, which means that permission should be granted unless adverse impacts significantly and demonstrably outweigh the benefits of granting permission when assessed against the policies in the NPPF taken as a whole;
- The contribution which the Appeal Scheme will make to the delivery of housing in the borough;
- The consistency of the Appeal Scheme with up to date Development Plan policies;
- The directives which are set out within the planning document *“Making the Efficient Use of Land, 2018”*; and
- The overarching benefits which arise from the Appeal Scheme.

The benefits of the Appeal Scheme

5.2 It is the Appellant’s case that there would be substantial benefits associated with the Appeal Scheme which contribute to the various strands of sustainable development set out in the NPPF. Planning officers recognise the various public benefits which arise from the scheme. These are set out in paragraph 9.20 and 13.11 of the Committee Report (APP/2), and are summarised below.

Housing Supply Benefits

5.3 The NPPG requires that ‘...plan-making authorities will need to count housing provided for older people against their housing requirement’ (Paragraph: 016a Reference ID: 63-016a-20190626). The LPA has confirmed that communal accommodation for older people is counted in their Annual Monitoring Reports and housing delivery information. The LPA employs the method set out in the *“Housing Delivery Test Measurement Rule Book”*, dated July 2018, as the basis of calculating the ‘net homes delivered’ for communal accommodation, including non-self-contained accommodation with care. As stated in the Committee Report, the aforementioned Housing Delivery Test Measurement Rule Book method reflects that the Appeal Scheme generates 292 units towards the LPA’s housing requirements.

- 5.4 The Appeal Scheme has the additional benefit of being a windfall development opportunity, which is not included in the LPA's assessment of housing land supply. Accordingly, the Appeal Scheme has the additional benefit of being able to deliver against the LPA's housing needs sooner than might be anticipated by the LPA or which could be delivered through the Local Plan process.
- 5.5 The Appeal Scheme will have the benefit of delivering a significant number of units that will contribute to the local supply of housing. This is a particularly relevant consideration in light of; the lack of five-year supply of housing sites, and the lack of housing delivery highlighted by the results of the Housing Delivery Test 2020 (Refer Appendix App/20).
- 5.6 The housing contribution of the Appeal Scheme (292 units, based on the Housing Delivery Test Measurement Rulebook) amounts to 50.4% of the LPA's requirement to deliver 579 new homes per year.
- 5.7 The Committee Report confirms that the Appeal Scheme will contribute to the LPA's housing supply and attaches positive weight to this benefit within the planning balance. Furthermore, the Committee Report recognises that residents moving into Extra Care accommodation move out of their existing homes which has the benefit of freeing up existing housing stock for the next generation.
- 5.8 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) (App/24). The ARCO report 'Planning for Retirement' (2020) (App/25) 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/26) 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.

Meeting the need to provide specialist care accommodation

- 5.9 The PPG confirms the 'critical' need to provide housing for older people and the importance of offering older people a better choice of accommodation to suit their changing needs. This can help older people to live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems.

- 5.10 In accordance with Policy DM21; the SHMA, the Appellant's Care Needs Assessment and the comments of the County Commissioning Authority confirms a need for extra care accommodation in the area. Epsom and Ewell Borough has a limited current supply of only 36 private extra care units (of 60 units provided at Nonsuch Abbeyfield, 24 affordable and 36 private), with 53 additional units under construction by Birchgrove. The Appeal Scheme is furthermore consistent with bullet point 2 of DM21 and the Appeal Scheme will not amount to an over-provision of private accommodation with care in the area. The Appellant is confident of the need for the Appeal Scheme. Bullet point 3 of DM21 requires that the design is sufficiently flexible to convert to other residential uses, should such need arise in the future. In this regard the bulk of the accommodation is self-contained residential accommodation that could readily be used for alternative, non-age restricted use, in the unlikely event that a development of this nature is no longer needed in the future.
- 5.11 The Core Strategy (Policy CS9) states that *"New housing developments should include a mix of dwelling types, sizes and tenures which help meet identified local housing needs and contribute to the development of mixed and sustainable communities."* No conflict with Policy CS9 is identified in the Committee Report.
- 5.12 The Appellant has confirmed the projected need for private Extra Care units within its Care Needs Assessment submitted as part of the planning application. The projected need for private extra care units is also confirmed within the Strategic Housing Market Assessment Update (SHMA) (2019) (refer to Appendix APP/15) and County Commissioning Statement for Epsom & Ewell Borough Council April 2019 onwards) (refer to Appendix APP/16). The Annual Monitoring reports for the three years from 2017 to 2020 (refer to Appendix APP/17A, APP/17B and APP/17C) confirm that only 89 units of equivalent C2 accommodation has been delivered against the target of 248 units set out in the SHMA (2019) and the Commissioning statement.

Re-provision of Key Worker Units and Affordable Housing Provision

- 5.13 Woodcote Lodge, which is now vacant, previously provided 24 units of accommodation for NHS workers. This accommodation is currently unavailable as the building had been prepared for demolition prior to the determination of the application. The previous key worker provision was not secured in planning terms. Through a planning obligation in the Draft S106 agreement (APP/8), the Appeal Scheme seeks to re-provide the key worker accommodation and to secure its provision and affordable status.

Regenerating an underutilised site

- 5.14 The proposal offers a unique opportunity to regenerate and optimise an under-utilised site which is occupied by redundant buildings which have been confirmed to be surplus to the needs of the NHS and are now vacant. The Appeal Scheme provides an opportunity to make effective and efficient use of the Appeal Site through the removal of poorly maintained, inefficient and underutilised buildings. The Appeal Scheme will create exemplar buildings and new landscaping and public realm which will enhance the local area and provide improved movement patterns. All of these factors are considered to further the objectives of re-using suitable and previously developed land for housing, as set out in Core Strategy Policies CS8 and CS7, and NPPF paragraphs 117, 118 c), 118 d) and 121, which seek to focus development on previously developed, inefficiently utilised land and sites within the defined built up areas of Epsom and Ewell.
- 5.15 It has been confirmed by the NHS that the Appeal Site is surplus to their requirements and the development will enable the enhancement of the existing hospital facilities on the remainder of the broader NHS site, in accordance with CS13 and NPPF paragraph 121 b). The Committee Report (APP/2), at paragraph 9.34, confirms that the Appeal Scheme complies with policy CS13.

Contributing to a Balanced and Sustainable Community

- 5.16 The Appeal Scheme will support the delivery of a balanced and sustainable community by enhancing housing choice for older people. At the date of the submitted Care Need Assessment, the LPA had not delivered any completed units of extra care accommodation with 113 units under construction (applications reference: 15/00845/FUL – providing 36 private and 24 affordable units and 18/00743/FUL providing 53 units). An application for 60 units of extra care accommodation (application reference: 19/01589/FUL) was submitted after the submission of the Appeal Scheme, and this application has now been withdrawn. The existing and future private extra care provision in the borough is very limited at only 113 units. In comparison to the circa 32,000 homes confirmed in the Borough Profile 2018 – 2019 (Appendix APP/18), the current provision of private self-contained accommodation with care does not reflect a mixed and balanced community, particularly when the age profile and accommodation choices within the borough are considered.
- 5.17 The total number of private extra care units in the borough (including those permitted and under construction) amounts to around 0.35% of the LPA housing stock. The proportion of specialist

accommodation in the borough does not reflect a mixed or balanced provision of housing which responds to the National Planning Guidance to provide housing choice for older people (001 Reference ID: 63-001-20190626).

- 5.18 Planning Guidance requires an understanding of how the aging population affects housing needs. ONS figures (refer Appendix APP/19) show that currently around 15,000 (18.6%) of the total Epsom and Ewell Borough population (circa) 80,800 are older than 65 years. By 2030, the 65+ population is projected to grow to around 17,000 (21%), while the total population size will have remained largely unchanged at 82,757. In other words, the proportion of the population which is older than 65 years is set to increase significantly over the next 9 years, while the overall size of the population is to remain fairly stable, it is therefore important that the LPA plans for the housing needs of the largest growth sector of the population.

Employment and Economic Benefits

- 5.19 The Appeal Scheme will generate significant employment opportunities, including jobs for local people. Jobs will be created on site within the care facilities, in various healthcare, activity, and management roles. Jobs will also be created within the nursery and the commercial facilities. It is anticipated that when fully occupied the care community will create jobs for approximately 100 people total (80 direct FTE jobs) with a minimum of 40 FTE jobs upon initial occupation. The construction phase of the Appeal Scheme will also create or sustain significant employment and a large contribution to GDP. When operational, the Appeal Scheme will make significant contributions of gross value-added contribution to GDP, through resident household spending including in shops and services.

Bus Stops and Travel Improvements

- 5.20 The Appeal Scheme will provide benefits to sustainable travel in the area with upgrades to the existing bus stops on Woodcote Green Road and Dorking Road to be secured by legal agreement (APP/8). The Appeal Scheme will also provide access to a 'Car Club' with a residents-only 'Car Club' vehicle (located within the APS car park) and a second public 'Car Club' vehicle, with a space provided at surface level. The upgrades to the bus stops and car club provision are to be secured by planning obligations which are set out in the Draft Section 106 agreement (Appendix APP/8).

Further scheme benefits

- 5.21 In addition to the benefits recognised by the planning officers in the Committee Report, the Appellant would draw attention to the additional benefits which the Appeal Scheme will deliver. In addition to those set out above, these benefits provide compelling material planning considerations in support of allowing this Appeal.

Efficient Use of Land

- 5.22 The Appeal Scheme represents the efficient and effective use of land, insofar as:
- The Appeal Scheme will fulfil the need for specialist housing accommodation for older people, within the local area and the borough of Epsom & Ewell;
 - The development contributes significantly to the LPA's five-year housing supply and the annual housing delivery target;
 - The Appeal Scheme will free up other sectors of the housing market by releasing much-needed family housing accommodation;
 - The Appeal Scheme reuses well-located and previously developed urban land;
 - The Appeal Scheme provides accommodation with care and the provision of community facilities which can create synergies with the retained hospital, through the provision of step down accommodation to ease bed blocking;
 - The new public realm, and in particular the new pedestrian movement route through the Appeal Site, will improve the connection between the retained hospital and the Millennium Green and residential areas to the south of the Appeal Site; and
 - The Appeal Scheme represents an efficient density, which is appropriate for the Appeal Site and location.
- 5.23 The Appeal Scheme is considered to promote the objectives of the Council's *"Optimising Housing Delivery"* Plan (Appendix APP/3) dated May 2018, which sets out a new approach to housing delivery, through optimising sites that are available, deliverable and developable. The Optimising Housing Delivery Plan confirms that it may *"result in development proposals seeking to optimise the capacity of a proposal site by developing to a higher density (greater than 40 dwellings per ha) or exceed the maximum building height being considered positively,"* and that decision makers will apply this approach to development proposals.

- 5.24 Policy DM11 should be afforded very little weight (being out of date by virtue of its inconsistency with the framework and with the LPA advising decision makers to give greater weight to other national and local policies in respect of the efficient use of land). Policy DM11 does not set a maximum density, but rather it states that most new housing developments will not exceed 40 dwellings per hectare. Policy DM11 provides for several exceptions where higher density developments could be accommodated, including where a site enjoys good access to services, facilities and amenities via existing public transport, walking and cycling networks, and where the surrounding townscape has sufficient capacity to accommodate developments of higher density. The Appellant is of the opinion that the Appeal Scheme is consistent with the density exceptions set out in Policy DM11, as set out in the Planning Statement, and the higher density of the Appeal Scheme is enabled through the exceptions of policy DM11.
- 5.25 It is noted further that the Committee Report confirmed that the Appeal Site *"is considered a highly sustainable location"*, the Planning Committee did not disagree with this position. It is therefore considered to be common ground that the Appeal Site enjoys good access by public transport, walking and cycling, to services, facilities and amenities.

Healthcare and Health Benefits

- 5.26 The report *"Measurable Outcomes for Healthy Ageing"* prepared by Aston / Lancaster University, commissioned by the Extra Care Charitable Trust, (refer to Appendix APP/21) sets out the measurable improvements to personal health, psychological and social wellbeing, as well as the resulting reductions in healthcare costs, that arise from living in housing with care, as follows:-
- Significant increase in the amount of exercise undertaken by residents (up to a 75% increase);
 - Increased walking speed, which indicates reduced fall risk. Increased walking speed was also found to reduce depressive symptoms;
 - An 18% reduction in falls in the first two years of living in an extra care environment and no changes (increased risk) of falls over a five-year period (there were 335,000 hospital admissions from falls in 2017/18, thus reducing falls has a significant benefit on healthcare spending);
 - The increase in frailty is delayed by up to three years in residents;
 - Residents have lower levels of depression and a 23% reduction in anxiety symptoms;
 - Residents showed improved memory and cognitive skills, with a 24% increase in autobiographical memory and 17% increase in memory recall tests;

- Levels of loneliness are lower for residents in Extra Care than the national averages, with 86.5% of residents being 'never or hardly ever lonely';
- Residents living in extra care environments made more effective use of healthcare services, with a 46% reduction in planned visits to GPs;
- Residents living in extra care environments average three fewer days in hospital per year; and
- Living in Extra Care saves the NHS around £1,994 per person, on average per year.

5.27 Several of the benefits listed above are set out in the Committee Report. Similar findings from a report prepared by Housing LIN and Southampton City Council (August 2019) (refer to Appendix APP/22) estimates that living in housing with care generates a health care system financial cost-benefit of £1,976.44 per person per year.

5.28 The Homes for Later Living report (2019) (refer to Appendix APP/23) calculates a total savings to both the healthcare and social care services of almost £3,500 per person. The Homes for Later Living report calculates that there would be £2.1bn savings to the health and social care system if 10% of national housing targets were built as purpose built homes for later living.

5.29 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 to Appendix App/27)

Design and Amenity

5.30 Planning officers in paragraphs 12.22 of the Committee Report confirm the requirement to optimise all sites and that the Appeal Site is appropriate for development. The Appeal Scheme is supported by a Design and Access Statement, Landscaping Design and Access Statement, Heritage Townscape Visual Impact Assessment as well as Daylight, Sunlight and Overshadowing Report. Furthermore, an independent urban design and townscape Scheme Audit was carried out by Define to review the Appeal scheme against the townscape-related reasons for refusal set out by the 20/19/01722/FUL decision.

5.31 The Appeal Scheme is considered to respond appropriately to the scale and appearance of the Hospital buildings and the local environment and local views.

5.32 The Appeal Scheme is of high-quality design and regenerates a large 1.5 hectare site occupied by extensive parking areas and an incoherent arrangement of one to four storey buildings. While Rowan house is an attractive building and has a positive relationship to Woodcote Green Road, as a whole the site and the existing buildings make a poor contribution to the appearance of the area and the streetscape. The existing Appeal Site lacks cohesion and the various existing site buildings have little positive relationship to each other and the surrounding context.

5.33 The Appeal Scheme provides a new high-quality built form with:

- Replacing the existing hospital buildings with a new high-quality and distinctive built form.
- Creating attractive and accessible pedestrian links through the Appeal Site – thereby enhancing permeability and forming a link through the Appeal Site between the Hospital campus to the north and the Millennium Green to the south.
- Providing an enhanced frontage to Woodcote Green Road.
- Positioning the bulk of car parking within the building where this is concealed from public views as far as possible.
- Enhancing the existing tree planting and landscaping within the Appeal Site and particularly along the Appeal Site frontage to Woodcote Green Road.
- Creating a locally distinctive design, which responds positively to the local character of the area and provides an interface between the Millennium Green, the residential area and the Hospital Campus.
- Introducing the tallest buildings in the less sensitive rear part of the Appeal Site and reducing heights to the south of the Appeal Site along the main street frontage and adjacent to the residential interface.
- Stepping the building heights which increase from four storeys along the street frontage to eight storeys towards the rear of the Appeal Site.
- Ensuring that the public landscaped areas are free from traffic.
- Orientating units and windows in order to protect neighbouring amenity and to avoid overlooking.
- Siting buildings within generous areas of public realm and landscaping. These spaces provide valuable public realm and provide spacious areas around the proposed buildings.
- Including a palette of materials which responds to the local materials and vernacular and acknowledges the Appeal Site's location within Epsom.

- Creating generous roof garden areas, which provide environmental benefits as well as additional amenity spaces for residents.

5.34 The Appeal Scheme thus promotes the objectives set out under CS5 (The Built Environment), DM9 (Townscape character and local distinctiveness), DM8 (Heritage assets) and DM10 (Design requirements).

Biodiversity Enhancements

5.35 The ecological assessment confirms that the Appeal Site is generally of low ecological value. The Appeal Scheme minimises detrimental effects on biodiversity and provides adequate mitigation measures to contribute positively to biodiversity, as required in terms of policies CS3 and DM4.

5.36 The Appeal Scheme significantly enhances the biodiversity of the Appeal Site through the provision of an ecological corridor along the Western edge of the Appeal Site, removal of substantial areas of hardstanding and replacement with new tree planting and landscaped areas.

The Provision of Communal Facilities

5.37 Policy DM34 states that planning permission will be granted for social infrastructure on the basis that it is delivered in multi-use, flexible and adaptable buildings or co-located with other social infrastructure uses which encourage dual use and increase public access, is located in areas accessible by public transport, walking and cycling, and is of high quality design providing inclusive access.

5.38 The Appeal Scheme provides a mix of communal facilities, which will benefit the community surrounding the Appeal Site, the users and staff of the adjacent hospital and residents of the Appeal Scheme. The Appeal Scheme provides a range of communal facilities and spaces including:-

- Restaurant / Bar / Dining area; Wellness centre including gym, swimming pool, hydrotherapy pool, consultation rooms, treatment & therapy rooms, changing & shower facilities; Shops/café.
- Resident-only facilities including Library / Lounge / Reading room; Craft room is part of a multi-function space; Cinema; Workshop; sensory garden; a roof garden;
- Publicly accessible open spaces and a new pedestrian route linking the Millennium Green to the south and the Hospital to the north; and

- A new children's nursery providing childcare facilities, mainly to staff of the NHS, but also staff of the care community and residents in the local area.

5.39 The Committee Report, at paragraphs 9.34 and 16.16, confirms that the Appeal Scheme complies with policy DM34.

Conclusions on other material planning considerations

5.40 For the reasons that we have described, it is the Appellant's case that there is a broad range of benefits which will arise from the Appeal Scheme and that there are a range of very powerful material planning considerations that indicate that planning permission should be granted for the Appeal Scheme.

6.0 The Main Issues in this Appeal

Matters not in dispute between the parties

6.1 A draft Statement of Common Ground is submitted with this Appeal. The Appellant is of the view that the following matters (subject to planning conditions, where appropriate) are not in dispute between the parties:-

- The 'tilted balance' applies to the Appeal Scheme, due to the LPA's 0.98 years supply of housing land and the LPA's 2020 Housing Delivery Test results, of 34% housing delivery over the past three years;
- The Appeal Site is not located in an area which is afforded protection in terms of footnote 6 of the NPPF;
- The Appeal Scheme would generate 292 units towards housing numbers;
- The Appeal Scheme would free up existing under-occupied housing stock for the next generation;
- There is a need for specialist accommodation for older people within and beyond the borough;
- The future supply of specialist accommodation for older people has increased since the submission of the application due to demographic changes and the withdrawal of a 60 unit extra care scheme (Application Ref: 19/01589/FUL);
- It is not detrimental to the Appeal Scheme that people who do not currently live within the borough may choose to move into Epsom, to live within this scheme;
- The benefits of the Appeal Scheme outweigh the less than substantial harm on heritage assets;
- The Appeal Scheme provides a high-quality area of public realm;
- The highways effects of the Appeal Scheme would be positive and the level of car parking provision are acceptable;
- The Appeal Scheme results in a significant increase in the number of site trees. 29 trees are proposed to be removed (of which 11 trees are Category U and 16 trees are Category C) more than 100 new trees are to be planted to replace the trees to be remove and to significantly improve the site landscaping;
- Environmental factors, including contamination, ecology, flooding, noise, air quality are acceptable; and
- The Appeal Scheme complies with the DM10(vii to xiii) (save for DM10(ix) for which the position is not agreed, and the Appellant's position is set out below)

- The fourth reasons for refusal will be resolved with the finalisation of a Section 106 agreement

Five Year Housing Land Supply Position

- 6.2 The Committee Report confirms that Epsom and Ewell Borough is not able to demonstrate a deliverable five year supply of housing, with the LPA having less than 1 year's supply of housing land (refer APP/17C for the 2019 – 2020 Annual Monitoring Report), meaning that paragraph 11d of the NPPF is engaged via footnote 7. The 'tilted balance' is also engaged via footnote 7 on the basis that housing delivery is significantly lower (at 34%) (Refer APP/20 for the MHCLG Housing Delivery Test results) than the delivery requirements for Epsom and Ewell Borough. Accordingly, applying the tilted balance, this means that planning permission should be granted for the Appeal Scheme unless policies within the Framework which protect areas or assets of particular importance provide a clear reason for refusing the development or if there are adverse impacts which demonstrably outweigh the benefits when assessed against the NPPF as a whole.
- 6.3 National planning policy seeks to boost the delivery of housing, in particular within authorities where plans are out of date, or where there is a structural failure in housing delivery or where a council has not identified sufficient land to meet its housing needs. The mechanism employed by the framework, through engaging the tilted balance, is to create a more positive determination environment to boost the number of homes permitted, to seek to address the shortcomings of a local planning authority to either plan positively for, or adequately deliver, its housing needs.
- 6.4 Accordingly, to increase the number of homes, this positive disposition means that planning permission should be granted unless policies within the Framework which protect areas or assets of particular importance (set out in footnote 6 of the NPPF) provide a clear reason for refusing the development or if there are adverse impacts which demonstrably outweigh the benefits when assessed against the NPPF as a whole. It is common ground that the Appeal Site is not subject to protected areas or assets of particular importance, and it is the Appellant's firm view that there are no adverse impacts which would significantly and demonstrably outweigh the significant housing and other benefits of the Appeal Scheme.
- 6.5 The LPA has failed to deliver the homes needed, as assessed via the housing delivery test. The LPA has an objectively assessed housing need of 579 units per annum. This increases to 695 with the addition of the housing delivery test 20% buffer. The MHCLG Housing Delivery Test 2019 confirms

that the LPA has delivered only 34% of its housing target over the past three years. The LPA has therefore fallen significantly below the threshold, which triggers the application of the tilted balance. It has been confirmed, in the Committee Report and Annual Monitoring Reports, that the LPA counts the delivery of specialist older people's accommodation in its housing delivery targets. The Appeal Scheme contributes 292 units towards this need, which amounts to a delivery of some 58% of the annual target, and the LPA has acknowledged that this benefit carries considerable weight.

- 6.6 It is the Appellant's position that the Planning Committee, in overturning the officer's recommendation, has failed to correctly apply the 'tilted balance' and has not correctly ascribed due weight to the significant benefits of housing delivery in the borough, particularly in light of the highly constrained land supply and delivery situation. Furthermore, the Planning Committee, in their consideration of the planning application, have applied disproportionate weight to the impacts arising from the Appeal Scheme in respect of the matters in dispute below.

Matters in dispute

- 6.7 The only matters in dispute between the parties are:
1. Whether the Appeal Scheme, 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;
 2. Whether the siting of the Appeal Scheme 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 development and if, as a result, the Appeal Scheme presents an over-developed and hard edge which will harm the character and appearance of the area; and
 3. If the Appeal Scheme, by reason of its height, massing and design, adversely impacts the amenities of 40 and 46 Woodcote Green Road, by means of overbearing, loss of privacy and loss of outlook.
- 6.8 The LPA has indicated their willingness to continue negotiations on the Section 106 obligations and a draft agreement is submitted with this Appeal (APP/8). The intention is to finalise a Section 106 agreement to address the fourth reason for refusal. Accordingly, the Appellant considers the main issues in the determination of this Appeal to be points numbered 1, 2 and 3 above.

- 6.9 The following sections of this Statement of Case explain why, within the context of the tilted balance, the LPA's conclusions in respect of the three points above should not have resulted in a refusal of permission for the Appeal Scheme. This Statement of Case will further demonstrate that there is no conflict with applicable policies of the Development Plan and no adverse impacts arising from the Appeal Scheme which significantly and demonstrably outweigh the benefits of the Scheme.

Reason for Refusal 1: Impact and harm the character and appearance of the area

- 6.10 The first reason for refusal states that *"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)".*
- 6.11 The Appellant will first examine the relevant policies cited in the reason for refusal and will demonstrate that the proposed development is consistent with paragraphs 122 and 127 of the NPPF and makes efficient use of the site, as required in terms of Policy CS5. The Appellant will also show, in carrying out the balancing exercise set out in of the LPA's planning document on *"Optimising Housing Delivery"* (2018) (APP/3) that the Appeal Scheme delivers positively on the policy objectives within Policies DM9, DM10, and DM11. The Appellant will establish that there are no areas of conflict with these policies which give rise to impacts which significantly and demonstrably outweigh the benefits of the Appeal Scheme, in particular the significant benefits of housing delivery, the benefit of providing specialist accommodation and care for older people and affordable housing and the other benefits set out in paragraph 6.1 above.

CS5 Built (Heritage) Environment

- 6.12 Core Strategy Policy CS5 (Built Environment) seeks to protect and enhance the borough's heritage assets and other areas of special character and requires high quality and inclusive design, to:
- create attractive, functional and safe public and private environments;
 - reinforce local distinctiveness and complement 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.

- 6.13 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 submitted Heritage, Townscape & Visual Impact Assessment (HTVIA) has been prepared in consideration of CS5 and has assessed the effects of the Appeal Scheme on 57 listed buildings, the two conservation areas which are located within 500 m of the Appeal Site, and on several non-designated heritage assets identified by the LPA.
- 6.14 The HTVIA has concluded, due to the limited inter-visibility between the Appeal Site and heritage assets, the existing size and bulk of the hospital buildings and the distance of the Appeal Site from heritage assets, that the Appeal Scheme would have either no impact or a negligible impact on the significance of the majority of the heritage assets. The exception to this is the Chalk Lane Conservation Area and some of the nearby listed buildings which are likely to experience an adverse impact at the low end of the less than substantial harm spectrum.
- 6.15 The LPA's design and heritage officers agreed with the position of less than substantial harm. This is confirmed at paragraph 12.18, 12.25, 13.25 of the Committee Report (APP/2). The Planning Committee did not dispute the finding of less than substantial harm on heritage assets. Planning officers confirm, within paragraphs 13.12 of the Committee Report, that the Appeal Scheme benefits outweighed the less than substantial harm on heritage assets.
- 6.16 The LPA, either within the Committee Report or in the deliberations of the Planning Committee, has not identified any conflict with DM8 (Heritage Assets), which seeks to protect against the loss of or adverse impact on heritage assets. It is therefore clear that the elements of the aforementioned CS5 relating to heritage assets are not considered to be engaged in substantiating the reasons for refusal.
- 6.17 It is accordingly submitted that the LPA agrees, per paragraph 13.12 of the Committee Report, that the public benefits of the Appeal Scheme outweigh the less than substantial harm of the Appeal Scheme on heritage assets.
- 6.18 In considering the various elements relating to high quality and inclusive design required by CS5, as listed in paragraph 6.12 above, the Appeal Scheme provides attractive new public spaces and a new through route, free of vehicular traffic, to the hospital.
- 6.19 As set out in paragraphs 5.29 to 5.33 above, the Appeal Scheme is of very high design quality and the building elevations are well detailed. The materials choice, appearance and design are considered

to reinforce local distinctiveness and complement the attractive characteristics of the borough, through a contemporary interpretation of local materials and colours. The updated application (21/00252/FUL) has amended the materials palette of the previous application (19/01722/FUL) to address concerns raised by the Planning Committee in considering application 19/01722/FUL in respect of the dark metal colour of the cladding, updated details propose a bronze colour metal cladding to replace the previously proposed dark grey and increased areas of brickwork. As per the previous application the façade composition has been developed to break up the massing of the buildings and to articulate the façade, deep reveals and soffits are employed to provide interest in façades. The use of balconies and planting elements on the balconies brings further articulation and provides greening up the building elevations.

- 6.20 The current Appeal Site conditions, as confirmed in paragraph 27.1 of the Committee Report are of poor quality and lacking in any coherent masterplan. It is further considered that the adjacent hospital buildings are of no redeeming architectural quality. The proposed buildings within the Appeal Scheme are of high design quality and would provide an improvement on the existing buildings and would provide a positive counterpoint to the institutional and utilitarian adjacent hospital buildings.

Policy DM9 (Townscape Character and Local Distinctiveness)

- 6.21 Policy DM9 (Townscape Character and Local Distinctiveness) states that the LPA will use the Conservation Area Appraisals and Environmental Character Study to guide the assessment of development proposals. New development is to enhance the borough's visual character and appearance, particularly those areas with poorer environmental quality and where the character has been eroded or needs improving. DM9 directs that planning permission will be granted for proposals which make a positive contribution to the borough's visual character and appearance.
- 6.22 DM9 requires that the LPA considers compatibility with local character and relationship to 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.
- 6.23 The explanatory text to DM9 states that *"A key aspect of sustainable development is that new development should enhance and complement local character, and be capable of integrating well into existing areas. For example, many of our existing built-up areas have a "leafy" visual character*

and appearance, which provides a distinctive natural or green infrastructure component to our urban environment. It is important that new development continues to maintain and enhance this aspect through the incorporation of appropriate green amenity space, landscaping and other green infrastructure."

- 6.24 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 existing Appeal Site does not make a meaningful contribution to Townscape Character or Local Distinctiveness. 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.
- 6.25 Paragraph 13.7 of the Committee Report confirms that "*as a result of the mitigation through design that has been embedded in the evolution of the proposals, impact on many of the surrounding townscape and visual receptors would be none or negligible, with several of the views and townscape experiencing no readily discernible change.*"
- 6.26 The Design Review of the Appeal Scheme undertaken by DEFINE, confirms the changes made to the scale and massing of the Appeal Scheme and that this the scale is more in keeping with the existing buildings and current change in street scene, while the materials used notably helps reduce contrast and aids assimilation.
- 6.27 The DEFINE Design Review furthermore confirms that the effects on character area ranges from a neutral effect to beneficial effects and that the height, mass, scale and design would positively impact on the character and appearance of the area and would be in accordance with relevant planning policies.
- 6.28 The DEFINE Design Review states that the Appeal Scheme is in keeping with the appropriate scale of the majority of the hospital buildings whilst stepping down to Woodcote Green Road and Digdens Rise

DM10 Design Requirements for New Developments

- 6.29 DM9 overlaps with DM10, with the latter policy providing further detail on the manner in which new development is expected to enhance the townscape, character and appearance of the area.

6.30 DM10 is divided into two distinct elements, with points DM(i) to DM(vi) relating to character and local distinctiveness, while DM(ix) relates to amenity considerations both within and affected by development proposals, while DM(vii) to DM(xiii) relate to matters including sustainability, safety, access, public realm and impact on telecommunications. DM (ix) will be dealt with in subsequent sections of this Statement relating to the third reason for refusal: the impact on neighbouring amenity.

6.31 DM10 sets out *“the most essential elements identified as contributing to the character and local distinctiveness of a street or area which should be respected, maintained or enhanced include, but are not limited, to the following:*

(i) prevailing development typology, including housing types and sizes;

(ii) prevailing density of the surrounding area;

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

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

(v) building line; and

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

6.32 The above policy points from DM10(i) to DM10(vi) are considered to provide the *“most essential”* design elements in respect of the local area and streetscape. The Appellant expects that the LPA will agree that the Appeal Scheme is consistent with DM10(vii, viii, x, xi, xii and xiii) with matters relating to amenity (DM(ix) dealt with under paragraph 6.50 below:

DM10(i) - prevailing development typology, including housing types and sizes

6.33 The main features of the existing townscape context are the existing (retained) hospital buildings to the north, 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.

As set out in the Design and Access Statement, the HTVIA and the Design Review by DEFINE, the Appeal Scheme is considered to respond positively to the prevailing development typology, including housing types and sizes, through the distribution of massing on the Appeal Site, building setbacks and heights, while considering the importance of making the most effective and efficient use of land.

The DEFINE Design Review confirms that the setback of the Appeal Scheme aligns with the frontages of the properties to the west and provides a replacement landscaping buffer to the frontage which enhances the existing character of Woodcote Green Road.

DM10(ii) - prevailing density of the surrounding area

- 6.34 The residential areas adjacent to the Appeal Site are predominantly low density. In light of the LPA's planning guidance "*Making the Efficient Use of Land – 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, it is considered that a consistent approach would also be to afford similarly reduced weight to DM10(ii).
- 6.35 While the density of the Appeal Scheme is significantly greater than that of the immediately surrounding area, the Appeal Site meets the exceptions listed under DM11 and it is therefore considered that the density of the Appeal Scheme is appropriate to the area. The design of the Appeal Scheme seeks to mitigate the effects of the Appeal Scheme on neighbouring amenity, and is considered to represent an appropriate balance between the effects of an increase in density and the imperative of making efficient and effective use of land and contributing to meeting the LPA's housing need.

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

- 6.36 The Appeal Scheme has considered the scale, layout, height, form and massing of the local character and townscape context.
- 6.37 The Appeal Scheme seeks building heights which are below the overall height of the hospital building, whilst the previously refused scheme (19/01722/FUL) was slightly higher than the total height of the hospital buildings.

- 6.38 The proposed buildings are aligned to the existing frontage of adjacent buildings, and provide both an active frontage to the street and significantly enhanced landscaping, generating a more positive relationship to the street and public realm than currently exists (with the buildings presently being situated behind parking and poor quality landscaping). 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 in their initial pre-app response dated 5 July 2019.
- 6.39 The relationship of the Appeal Scheme to the buildings to the west of the Appeal Site is considered appropriate, and the revised application lowered the height of the frontage buildings further and introduced a setback top level. The alignment of the proposed frontage buildings with the setback of the building at 40 Woodcote Green Road, the orientation and location of units, setbacks and building offsets, as well as the proposed enhanced boundary planting and reduction in parking along this boundary.
- 6.40 The Design Review by DEFINE confirms that the proposed development (height, mass, scale and design) would positively impact the character and appearance of the area and would be in accordance with relevant planning policies.

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

- 6.41 The Appeal Scheme increases the distance between number 40 Woodcote Green Road and the new buildings (building A) in comparison to the distance between Woodcote Lodge and 40 Woodcote Green Road. Whilst building A rises to 5 storeys where adjacent to 40 Woodcote Green Road, the setback has been increased from 9 m to 14.5 m. Refer to the Design and Access Statement submitted with the application. The relationship between the frontage buildings is improved in the Appeal Scheme with the central opening into the Appeal Site, leading to the public plaza, which is widened and improved with significant additional landscaping.

DM10(v) - building line

- 6.42 The existing buildings on the Appeal Site do not follow an existing street setback or building line, and the setback of Rowan House and Woodcote Lodge are inconsistent with each other and the adjacent buildings and provide an incoherent relationship to the street. To the west and the east of the Appeal Site, considering both the retained hospital buildings and adjacent dwellings, there is no consistent

building line including the Appeal Site. There are numerous further examples of varying building lines along Woodcote Green Road. Accordingly, there is no compelling reason to artificially seek to establish a consistent setback on the Appeal Site.

- 6.43 The height and massing of the proposed Appeal Scheme frontage buildings has been informed by, and seeks to maintain a similar streetscape relationship in terms of the position and heights to that of the existing frontage buildings. The Appeal Scheme also provides a number of improvements to the existing street frontage, with a wider landscaped space between the frontage buildings than currently exists between Woodcote Lodge and Rowan House, an increased offset from 40 Woodcote Green Road, a reduction in the total height of Building B in relation to Rowan House and improved landscaping to the site frontage.
- 6.44 The Appeal Scheme provides an enhanced relationship to the street frontage of the site. The proposed Building A is aligned with the frontage of the houses to the west and provides sufficient space for additional landscaping and space for parking while maintaining an appropriate setback to provide an active frontage. Building B is situated closer to the street than Building A, this setback is considered to be appropriate, has been informed by the existing position of Rowan House, provides space for significantly improved landscaping, creates a positive street frontage and is situated adjacent to the open hospital parking area to the east of the Appeal Site.
- 6.45 *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.*
- 6.46 The character of the area is informed by the dominant forms of the hospital campus, with predominate flat roofs and an institutional aesthetic and the suburban housing with arts and crafts influence and pitched roofs.
- 6.47 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.

- 6.48 While development on this scale cannot be constructed in the traditional architecture of the suburban housing or heritage assets in the area, the Appeal Scheme is considered to respect the typical details and key features of the local area.

Efficient use of Land (DM11)

- 6.49 Policy DM11 (Housing Density) sets out the LPA's approach to securing development which makes 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, and sites where the townscape has capacity for higher density developments.
- 6.50 The LPA has, in citing DM11 (Density) in the reasons for refusal, disregarded the decision taken in May 2018 by the Licensing Planning Policy Committee (APP/3) to assign greater weight to national and local policies which promote the efficient use of land and which optimise sites for housing against policies such as DM11 (Density) and Policy DM13 (Building Heights) which have a constraining effect on housing delivery. While the LPA has identified a conflict with DM11, they have not raised a policy objection in terms of height (DM13) which represents an inconsistent approach to the application of planning policy.
- 6.51 The Appeal Scheme makes efficient use of land through the delivery of a development with a density of around 219.3 units per hectare. The Appeal Scheme furthermore has regard to the need to develop land in a comprehensive manner and in no way impedes or inhibits the development of any adjacent sites. The Appeal Scheme is thus considered to be consistent with NPPF paragraph 122 in respect of achieving appropriate densities and making efficient use of land.
- 6.52 Paragraph 127c) of the NPPF requires that developments are sympathetic to local character and history, but that this is not to be at the expense of discouraging appropriate innovation or change (such as increased densities). This national policy is considered to carry greater weight than policies DM11 and DM10(ii) and DM13, due to the constraining nature of these policies.
- 6.53 Notwithstanding decision makers being directed to take decisions which optimise land and to attribute greater weight to the need to deliver new homes, the Planning Committee did not seek to assign reduced weight to Policy DM11 within the first reason for refusal, as instructed to do so in the 2018 document "Making Efficient Use of Land – Optimising Housing Delivery".

6.54 In summary, with the exception of DM11, which for the reasons set out in the LPA's 2018 report on Optimising Housing Delivery is to weigh less strongly in the decision making process than NPPF 122, the policies cited in reason for refusal 1 are design led policies aimed at ensuring that developments are of high design quality and make a positive design contribution to the townscape and local character. The Appellant will provide evidence setting out in more detail how the Appeal Scheme is consistent with each element of Policy CS5, DM9 and DM10 and NPPF paragraph 127.

Reason for Refusal 2: Landscaping

6.55 Policy DM5 (Trees and Landscape) seeks to protect and enhance the borough's trees, hedgerows and other landscape features, by:

- Planting and encouraging others to plant trees and shrubs to create woodland, thickets and hedgerows;
- continuing to maintain trees in streets and public open spaces and selectively removing, where absolutely necessary, and replacing and replanting trees; and
- requiring landscape proposals in submissions for new development, which retain existing trees and other important landscape features where practicable and include the planting of new semi-mature trees and other planting.

6.56 The Appeal Scheme does not result in a significant loss of trees, hedgerows or other landscape features, as there are no such notable features on the Appeal Site.

6.57 The landscaping proposals of the Appeal Scheme provide a substantial uplift in trees and soft landscaping. The Appeal Scheme has increased the setback of the buildings on the western side of the Appeal Site (comparative to the 19/01722/FUL scheme) , and has provided an approximately 10 metre wide street landscape edge to the site in front of the proposed buildings on the eastern side of the Appeal Site. The details contained within the Landscaping DAS set out the design rationale and the landscaping improvements in more detail.

6.58 In summary, the Appeal Scheme seeks the following landscape features:

- Over 100 new trees, focused predominantly along Woodcote Green Road and the western boundary, and street frontage to Woodcote Green Road. This would be appropriately managed

through a Landscape Environmental Management Plan (LEMP), which is to be secured by planning obligation (Refer APP/8).

- Extensive areas of public realm (currently hard landscaping) that includes a double row of large trees to support a green buffer along Woodcote Green Road
- Maximisation of the use and retention of existing trees, with these integrated into the design to enhance the strong character of the area.
- Extensive areas of increased soft landscaping to protect existing trees and enhance their future growth when compared against current existing extensive hard landscaping
- Root Protection Areas proposed recognise British Standards and relevant adjustments for root protection areas. Final decision on Root Protections Areas is to be controlled by way of Arboricultural Method Statement condition.
- Significant landscape enhancements with use of native tree species, bat and bird boxes and understorey planting to benefit the ecological corridor.
- Extensive areas of new green roof and a large expanse of accessible landscaped roof area.

6.59 At paragraph 17.27 of the Committee Report the officers found that the Appeal Scheme creates a sense of place and complies with DM5. However, in light of the extensive number of proposed landscape features, it is considered that the Appeal Scheme significantly exceeds the requirements of DM5 and will result in a considerable improvement on trees and landscaping on the Appeal Site.

6.60 The Design Review by DEFINE, states that "The boundary with no 40 and 46 Woodcote Green Road has been enhanced to reflect the mature tree coverage and rear/side boundary treatment seen in adjacent character areas." and that "the revised scheme results in a positive change to Woodcote Green Road frontage, and provides sufficient space for an appropriate landscape edge to this street."

Reason for Refusal 3: Impact on Amenity

6.61 The third reason for the refusal of the application relies on Policy DM10, insofar as this policy relates to the amenity of the occupiers at 40 and 46 Woodcote Green Road, as specifically set out in the reasons for refusal. DM10(ix) relates to amenity considerations both within and affected by development proposals.

6.62 The proposed development of the massing and façades have been designed to achieve suitable setbacks and facing distances between neighbouring properties and proposed buildings - the

distance between the principle facing elevations of 40 and 46 Woodcote Green Road and the proposed buildings are proposed to be circa 15m and 44m respectively. Further details of the separation spaces are set out in the Design and Access Statement submitted with the application. This will minimise the impacts on the neighbouring properties with regards to impact on privacy and amenity.

- 6.63 Number 40 Woodcote Green Road is predominantly orientated to the north, with obscure windows (understood to be for a bathroom and toilet) orientated towards the Appeal Site, along with a secondary window to a kitchen and a window to a landing.
- 6.64 The windows in the proposed units on the western side of the Appeal Scheme, where adjacent to 40 and 46 Woodcote Green Road, have been orientated to the north and west, through an angled façade or have been positioned as high level windows in the façade to avoid overlooking 40 and 46 Woodcote Green Road. It is considered that there is no significant impact on privacy within 40 and 46 Woodcote Green Road. The proposed building is angled away from the gardens of 40 and 46 Woodcote Green Road, which serves to mitigate any impact on the privacy of the garden areas of this home.
- 6.65 An enhanced new landscape buffer is being provided along the western boundary of the Appeal Site, adjacent to the neighbouring residential properties. The landscape buffer provides significant additional planting to that which exists on the Appeal Site and forms a new continuous landscaped edge including soft planting, and 9 additional trees.
- 6.66 The sensory garden at the podium level of the western building has been designed to reduce potential for overlooking. A balustrade with hedging has been set back 1.5m from the edge of the building and planting borders are incorporated onto the area.
- 6.67 The existing separation distance between the principle elevation of 40 Woodcote Green Road and Woodcote Lodge is approximately 9.1 metres. While the height of the proposed building increases from three to four / five storeys, the separation distance increases to approximately 14.59 metres.
- 6.68 The Appeal Scheme runs parallel to the boundary with number 40 Woodcote Green Road for a distance of approximately 23 metres, beyond which the proposed building angles away from the boundary and both increases the setback and the angle of observance. Within the area of closest

proximity to the boundary of number 40 Woodcote Green Road, the Appeal Scheme employs a mix of directional windows, orientated away from the Appeal Site, and high level windows to avoid direct overlooking. Further details of this are included within the Design and Access Statement and the Design Review from DEFINE.

- 6.69 The taller element towards the centre of the Appeal Site are located approximately 45 metres from 46 Woodcote Green Road. This distance, as well as the position and orientation of the dwelling at 46 Woodcote Green Road, significantly mitigates the potential for overlooking.
- 6.70 The Appeal Scheme would result in a retained tree and several additional trees planted to screen the rear garden 40 Woodcote Green Road.
- 6.71 The articulation of the Appeal Scheme, which steps up from two storeys to four along the northern podium part of Building A, and increases from five storeys to nine storeys as the building curves around from the Appeal Site frontage to the rear element adjacent to the hospital, provides a variety of building heights, setbacks and elevation planes which serve to break up the mass of the building and mitigates overbearing impacts arising from the scheme.
- 6.72 Building B does not produce any prospect of overbearing impact due to the distance of this building to the adjacent residential properties and publicly accessible spaces. Furthermore, the combination of the lower frontage element of Building B, which is equivalent in height to Rowan House, and the curved layout of the building which wraps around the eastern and northern side of the Appeal Site, towards the retained hospital site, means that there is further articulation of the building which would mitigate any overbearing impact.
- 6.73 As confirmed in paragraphs 18.5 to 18.9 of the Committee Report (APP/2), officers do not consider that the proposal 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.

Reason for Refusal 4: The Conclusion of a Satisfactory Legal Agreement

- 6.74 The fourth reason for refusal is based on the absence of a satisfactory legal agreement to secure affordable housing or a contribution. The Appellant was working positively to agree a Section 106 Agreement, and Heads of Terms had been circulated, when the application was tabled before the

Planning Committee. It is accordingly considered that Reason 4 can be overcome by a satisfactory legal agreement being completed.

- 6.75 The Appellant has made substantial progress in the preparation of a legal agreement and the principle heads of terms have been agreed. A copy of the draft legal agreement is submitted with this appeal (APP/8) and the LPA has confirmed that they will continue to engage with the Appellant over the course of the Appeal with the view of reaching an agreement on the Section 106 agreement.

Conclusions on the Main Issues

- 6.76 For the reasons set out in this Statement, it is plain that the LPA's position is unjustified and that – contrary to the Planning Committee's assertions – the Appeal Scheme would comply with all the development plan policies that are referred to in the LPA's reasons for refusal.

7.0 Representations received from other interested parties

- 7.1 A range of responses from the local community were received by the LPA in response to its consultation exercise on the planning application. The Appellant's responses to these issues are summarised in the table below.

Matter raised	Appellant response
Principle of development	Many of the comments received agreed that there is local support for the provision of extra care facilities at the Appeal Site. It has also been acknowledged that there is a need for extra care facilities within the borough. This need is set out within the submitted Planning Statement, the accompanying Care Needs Assessment and has been confirmed by Surrey County Council. Paragraphs 9.1 to 9.36 of the Committee Report confirms the officer's support for the principle of development.
Design and Massing	<p>The Design and Access Statement, Design Review by DEFINE and the Heritage Townscape Visual Impact Assessment provide details of the way in which the Appeal Scheme has responded to the character of the area whilst responding to the Appeal Site's constraints and opportunities.</p> <p>Prior to submission the first application (19/01722/FUL), as well as the amended application (21/00252/FUL) engaged in pre-application discussions with Epsom and Ewell Borough Council which had a significant influence on the final design of the Appeal Scheme.</p> <p>The focus of pre-app discussions on the amended application (21/00252/FUL) were to address the reasons for refusal of 19/01722/FUL.</p> <p>The Council's Report titled <i>"Making Efficient Use of land"</i> calls on decision makers to fully optimise sites that are available, deliverable and developable (refer to para 3.1). The report states that some sites will be developed for higher densities and taller buildings than would</p>

	<p>have been permitted under existing policies. The scale and massing of the Appeal Scheme responds to <i>"Making Efficient Use of land"</i> to contribute to the borough's housing need while respecting and balancing the effect of the Appeal Scheme on local character and site constraints.</p> <p>The Appeal Scheme has been informed by a Heritage Townscape Visual Impact Assessment and Sunlight and Daylight Assessment, which resulted in the height and scale of development reduced prior to the submission of the first application (19/01722/FUL). As set out in the planning statement, the DAS and HTVA, the updated application further reduced the height, scale and massing of the proposals which are considered to respond successfully to the scale and appearance of the Epsom Hospital and the local environment; taking heritage, landscape and residential amenity considerations into account.</p> <p>It is considered that the massing, design and articulation of massing is of a high quality which has responded to local views whilst according with relevant planning policy.</p> <p>Paragraphs 12.1 to 12.33 of the Committee Report confirms the officer's agreement that the design and massing of the Appeal Scheme is appropriate and justified.</p>
Height	<p>The height of the Appeal Scheme has been informed by the pre-application process with the LPA and the public consultations that were undertaken prior to submission. Further guidance was taken from the LPA's Issues and Options Consultation which identifies that locations suitable for higher buildings include town centres, sites in proximity to railway stations; and sites located along transport corridors.</p> <p>The taller building heights are located to the rear (north) of the Appeal Site, to respond to the existing taller hospital buildings. The taller elements of the Appeal Scheme are concentrated to the north, with heights reducing to the south and west, to provide an appropriate</p>

	<p>interface with the adjacent residential environment, and to provide an appropriate response to visual and townscape considerations and local heritage assets and conservation areas.</p> <p>Paragraphs 12.21 to 12.22 of the Committee Report confirms the officer's support for the height of the Appeal Scheme.</p>
Parking and Highways Implications	<p>The Appeal Scheme provides 156 on site car parking spaces. Which the County Highways Authority has confirmed is suitable for the Appeal Scheme</p> <p>Travel to the Appeal Site will be managed through a Travel Plan, and a Parking Management Plan will be secured as a planning condition and would ensure that there is not a negative impact on the surrounding residents. The Appeal Scheme also makes provisions for a car club vehicle which will be available to the wider community, as well as improvements to existing bus infrastructure.</p> <p>Paragraphs 19.1 to 19.33 of the Committee Report confirms the LPA officer's and County Highways authorities support for the scheme in terms of highways and parking impacts.</p>
Outlook (daylight / sunlight)	<p>A comprehensive Daylight and Sunlight Impact Assessment and Internal Daylight and Sunlight Analysis has been provided in support of the Appeal Scheme. Although some impact on a small number of adjacent properties has been identified, overall the assessments demonstrate a high level of compliance to the best practice guidance, demonstrating that the majority of neighbours will not be significantly affected. For the immediately adjacent properties, there would be some isolated daylight transgressions which are below the recommended guidelines. For the majority of cases the rooms affected are likely to be secondary/non-habitable space, or relate to dual-aspect rooms with mitigating light, such that the retained levels of light are considered acceptable.</p>

	Paragraphs 18.12 to 18.14 of the Committee Report confirms that the Appeal Scheme is considered acceptable in terms of effects on sunlight and daylight.
Affordable Housing	<p>The Appeal Scheme provides affordable housing in the form of 24 units of Key Worker Accommodation for NHS workers.</p> <p>The Appellant has undertaken a viability assessment which demonstrates that the amount of affordable housing provided is the maximum viable amount. Due to the significant amount of floor-space provided for communal spaces the Appeal Scheme cannot contribute to affordable housing and other obligations in the same way as might a Class C3 residential scheme with less non-sales floor-space and offering limited or no care provision.</p>

- 7.2 It is the Appellant's case that no material considerations have been raised by third parties that should prevent this Appeal from being allowed.

8.0 Planning obligations and planning conditions

Planning obligations

8.1 The Draft Section 106 Agreement (refer Appendix APP/8), included with this Appeal submission sets out the detail to the following items:

- Affordable Housing Provision
- C2 Use Restrictions
- Off Site highways Works
- Provision of Bus Infrastructure
- Travel Plan and monitoring fee
- Car Club
- Landscape Ecological Management Plan
- Pedestrian and cycle routes within the Appeal Site
- Allocation of nursery places for the NHS
- A contribution towards the ongoing repairs and maintenance of the Woodcote Millennium Green

Planning conditions

8.2 The Committee Report prepared by the case officer recommended a series of planning conditions that were intended to be imposed with the granting of planning permission. The Appellant will seek to agree the planning conditions with the LPA and will set these out in an agreed Statement of Common Ground to assist the Inspector.

9.0 Conclusions

- 9.1 This Statement of Case has been prepared to support the Appellant's appeal against the decision of the LPA to refuse planning permission for the Appeal Scheme.
- 9.2 The 'tilted balance' is to be applied in the determination of the appeal pursuant to paragraph 11d) and footnote 7 of the NPPF. The significant benefits of delivering housing on the Appeal Site, among the numerous other benefits, including the provision of much needed housing with care, are considered to significantly outweigh any adverse impacts arising from the Appeal Scheme.
- 9.3 The members of the Planning Committee have failed to give due positive weight to the significant housing and other benefits of the Appeal Scheme. The members of the Planning Committee have also, notwithstanding the guidance provided by the LPA's Licensing and Planning Committee in their 2018 report *"Making Efficient Use of Land - Optimising Housing Delivery"*, afforded disproportionate weight to policies which are out of date and have a constraining effect on the delivery of housing and the optimum and efficient use of land in the borough.
- 9.4 The Appeal Scheme has made a number of changes to the previously refused application (Ref no. 19/01722/FUL) which has also been appealed. While the Appellant is of the view that application 19/01722/FUL should have been granted planning permission, the changes to the previous scheme are considered to address the reasons for the refusal of application 19/01722/FUL.
- 9.5 The Appeal Scheme contributes 292 units towards the LPA's housing numbers and provides a significant boost to the delivery of homes in the borough, which is particularly notable taking into account the LPA's 0.98 years supply of housing land, and delivery of only 34% of its housing requirements over the past three years.
- 9.6 The Appeal Scheme will secure 24 units of Key Worker Accommodation as affordable housing for NHS workers.
- 9.7 The Appeal Site is an unallocated windfall site, which is surplus to the requirements of the NHS. The development of the Appeal Site for a high density housing with care development along with state of the art wellness and community facilities, which are open to the public, represents an efficient and effective use of the Appeal Site.

- 9.8 The Appeal Scheme is a development of high design quality which has been carefully considered within the varied context of the area. The proposed new buildings, new public realm and movements systems, improved landscaping and tree planting and ecological enhancements are all material benefits which weigh in favour of granting permission.
- 9.9 The Appeal Scheme provides significant benefits. In summary, the Appeal Scheme would deliver:
- 50% of the LPA's annual housing need;
 - a development which addresses the pressing need for specialist accommodation for older people in Epsom;
 - 24 units of affordable housing for Key Workers;
 - The regeneration of an underutilised unattractive site of poor environmental quality, and a new area of productive, accessible and attractive townscape;
 - substantial economic, employment and community benefits associated with introducing a new high-quality care community in a sustainable location;
 - benefits in terms of cost and resource savings to healthcare and social care providers;
 - a community which will have significant beneficial effect on the health and wellbeing of residents; and
 - upgrades to public facilities and public transport.
- 9.10 The Appeal Scheme is shown, in the officer's planning Committee Report, to be consistent with the policies of the Development Plan, and constitutes sustainable development and the creation of a mixed and inclusive community.
- 9.11 For these reasons, the Appellant strongly considers that the Epsom & Ewell Planning Committee made the incorrect decision in overturning the officer's recommendation to grant permission and refusing planning permission for the Appeal Scheme, and respectfully requests that the Appeal is allowed and planning permission for the Appeal Scheme is granted.

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