

Epsom General Hospital, Dorking Road
Epsom KT18 7EG

Appeals A & B

Statement of Case

Mike Kiely 14 July 2021

Site Address

Epsom General Hospital, Dorking Road, Epsom KT18 7EG (the Appeal Site)

Description of Development

Appeal A

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

(Proposed Development A)

Appeal B

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

(Proposed Development B)

Applicant

Senior Living Urban (Epsom) Limited (the Appellant)

References

Appeal A

Epsom & Ewell Borough Council (the Council): 19/01722/FUL

Planning Inspectorate (PINS): APP/P3610/W/21/3272074

Appeal B

Epsom & Ewell Borough Council (the Council): 21/00252/FUL

Planning Inspectorate (PINS): APP/P3610/W/21/3276483

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1 INTRODUCTION

- 1.1 This Statement of Case is prepared on behalf of Epsom & Ewell Borough Council (the Council).
- 1.2 The Statement provides a summary of the evidence to be submitted for the two appeals made pursuant to Section 78 of the Town and Country Planning Act (1990) and is made in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000. The appeals have been conjoined and will be heard by way of Public Inquiry commencing 17 August 2021.
- 1.3 Accordingly, this Statement supersedes the previous Statement of Case dated 1 June 2021 submitted on behalf of the Council. Most of the information contained in the original statement is repeated in this Statement. Where information is materially different, this will be indicated.
- 1.4 The Council's earlier Statement of Case was produced before a Statement of Common Ground was agreed between the Council and the Appellant. Accordingly, it included relevant elements from the draft Statement of Common Ground that the Council had produced in order to provide the Inspector with full information at that time (1 June 2021). As a Statement of Common Ground was subsequently agreed on 11 June 2021, there is no need to now include that additional information in this Statement of Case. That additional information comprised the following sections from the original Statement of Case:
- Description of the site
 - Description of development
 - Description of the area
 - Planning history of the site
 - Policy context
 - Matters not in dispute
 - Appendix A: Relevant development plan policies
 - Appendix B: Agreed conditions
- 1.5 The Council reserves the right to amend or add to this Statement in response to comments raised by any other party.

2 BACKGROUND

2.1 This Inquiry relates to two appeals.

Appeal A

2.2 The application for planning permission (19/01722/FUL) was submitted to the Council on 27 January 2020 for Proposed Development A.

2.3 The application was reported to the Council's Planning Committee on 18 November 2020. A copy of that report¹, the update report² and associated minute³ are available from the Council's website via the links in the footnote.

2.4 The recommendation to committee was to grant planning permission subject to conditions and securing planning obligations set out in the committee report and as amended in the update report.

2.5 The decision of the Committee was to refuse planning permission, against the officer recommendation for approval, for the following grounds:

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

¹ <https://democracy.epsom-ewell.gov.uk/documents/g1051/Public%20reports%20pack%2018th-Nov-2020%2019.30%20Planning%20Committee.pdf?T=10>

² <https://democracy.epsom-ewell.gov.uk/documents/b3527/Supplementary%20information%20Update%20report%2018th-Nov-2020%2019.30%20Planning%20Committee.pdf?T=9>

³ <https://democracy.epsom-ewell.gov.uk/documents/g1051/Printed%20minutes%2018th-Nov-2020%2019.30%20Planning%20Committee.pdf?T=1>

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).

2.6 The Council issued the decision on 23 November 2020.

Amended plans

- 2.7 Since appealing the decision, the Appellant has submitted amended plans for Appeal A that have been accepted by the Inspector and will be considered at the Inquiry. These amendments broadly incorporate the changes made to the application that is the subject of Appeal B, but do not include the reductions made to the height of both buildings. The Council's evidence will address the impact of the amended scheme only.

Appeal B

- 2.8 The application for planning permission (21/00252/FUL) was submitted to the Council on 23 February 2021 for Proposed Development B.
- 2.9 The application was reported to the Council's Planning Committee on 22 April 2021. A copy of that report⁴, the update report⁵ and associated minute⁶ are available from the Council's website via the links in the footnote.

⁴ <https://democracy.epsom-ewell.gov.uk/documents/s19467/Epsom%20General%20Hospital%20Dorking%20Road%20Epsom%20Surrey%20KT18%207EG.pdf>

⁵ <https://democracy.epsom-ewell.gov.uk/documents/b3929/Supplementary%20information%20Update%20report%2022nd-Apr-2021%2019.30%20Planning%20Committee.pdf?T=9>

⁶ <https://democracy.epsom-ewell.gov.uk/documents/g959/Printed%20minutes%2022nd-Apr-2021%2019.30%20Planning%20Committee.pdf?T=1>

- 2.10 The recommendation to committee was to grant planning permission subject to conditions and securing planning obligations set out in the committee report and as amended in the update report.
- 2.11 The decision of the Committee was to refuse planning permission, against the officer recommendation for approval, for the following grounds:
1. The proposed development by reason of its height, mass, scale and design would adversely impact and harm the character and appearance of the area (including the built environment and landscape setting), failing to comply with Policy CS5 of the Core Strategy (2007), Policies DM9, DM10 and DM11 of the Development Management Policies Document (2015) and paragraphs 122 and 127 of the NPPF (2019).
 2. The siting of the development leaves insufficient landscaping opportunities to the frontage of Woodcote Green Road and along the south-western boundary with neighbouring residential property to mitigate the impact of the proposed development, presenting an over-developed and hard edge to the appearance to the development, which would cause harm to the character and appearance of the area. Causing harm to the character and appearance of the area fails to comply with Policy DM5 of the Development Management Policies Document (2015) and the NPPF (2019).
 3. The proposed development by reason of its height, massing and design would adversely impact on the neighbouring amenities of the occupiers at 40 and 46 Woodcote Green Road, by means of overbearing, loss of privacy and loss of outlook, failing to comply with Policy DM10 of the Development Management Policies Document (2015).
 4. In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure an affordable housing contribution, the applicant has failed to comply with Policy CS9 (Affordable Housing and meeting Housing Needs) of the Core Strategy (2007) and guidance contained under NPPF (2019).
- 2.12 The Council issued the decision on 6 May 2021.
- 2.13 The reasons for refusal are identical for both developments, save for the wording, but not the meaning, of the final phrase of reason 4.

Agreed information

- 2.14 The committee reports for each application described the site, the surrounding area, the proposals, the planning history and the planning policies that are relevant to the Proposed Developments.
- 2.15 The Statement of Common Ground has sections agreeing the description of the appeal site, the description of developments, the description of the area, the planning history of the appeal site and the policy context.
- 2.16 The Statement of Common Ground has agreed positions on planning obligations and planning conditions for both appeals. A set of conditions for each appeal has been produced and agreed.

List of Documents

- 2.17 A core document list will be prepared in consultation with the appellant and issued to the Inspector prior to the Inquiry.

3 STATEMENT OF CASE

- 3.1 The Council's evidence will refer to the Development Plan and other material considerations (such as national planning policy). It will describe the matters where the Council found the Proposed Developments acceptable and the matters where the Council found the Proposed Developments unacceptable in terms of the Development Plan and other material considerations.
- 3.2 The Council's evidence will also identify the components of the surrounding area that give it a special character and why the development harms that character. The evidence will set out the up-to-date position for the consideration of design matters in the planning decision making process as set out in the NPPF, PPG and the Development Plan.
- 3.3 The Council will set out evidence that demonstrates that the development is contrary to:
- policy CS5 of the Core Strategy (2007);
 - policies DM5, DM8, DM9, DM10 and DM11 of the Development Management Policies Document (2015); and
 - policies in the NPPF, particularly those relating to achieving well-designed places and conserving and enhancing the historic environment.
- 3.4 There are three aspects where the Council finds the design of the Proposed Developments unacceptable: impact on the area, overdevelopment and impact on neighbouring properties.

Design: impact on the area

- 3.5 The Council will set out evidence that demonstrates that for both appeals:
- the existing buildings on site are at a scale and of a design that respects the character of the area;
 - the proposed development comprises two very large buildings that will dominate the site by reason of their overall form, large size, positioning on the site, frontage lengths and height and they would be out of character with the prevailing densities and building typologies in the area;
 - the siting of both blocks in relation to Woodcote Green Road does not respect the generally strong building line either side of the appeal site; and

- the elevational detailing and choice of material will be alien features in the area that will contrast with the dominant vernacular.

3.6 Concerns were raised from neighbours as a result of publicity and notification of the Proposed Developments regarding the heights, design and massing of the proposal, the design and materials proposed and that it is out of character with the area.

Design: overdevelopment

3.7 The Council will set out evidence that demonstrates that for both appeals:

- the two proposed buildings are very large in scale and they will dominate the site;
- most of the site not occupied by the two buildings is proposed to be used for access and car parking, significantly diluting any landscaping opportunities;
- the scale of landscaping does not complement the scale of the development, nor does it serve as a generous amenity provision for a use that is characterised by residents who will be forced by their lack of mobility to spend most of their time within the site;
- loss of mature trees within the site is contrary to development plan policy and is a function of the overdeveloped nature of the Proposed Developments;
- the loss of mature trees represents a loss of a valuable amenity and ecological asset that will take many decades to replace;
- the scale of landscaping proposed for the development is not suitably scaled to enable its impact to be appropriately mitigated.

3.8 Concerns were raised from neighbours as a result of publicity and notification of the Proposed Developments regarding the density of the development.

Design: impact on neighbouring properties

3.9 The Council will set out evidence that demonstrates that for both appeals:

- the development will have an overbearing effect and a loss of outlook to properties in the vicinity;
- the western building in particular will have an overbearing impact on properties to the west generally and numbers 40 and 46 Woodcote Green Road. 14 to 28 Digdens Rise and 7 Hylands Road in particular;
- the eastern outlook from the properties to the west, and particularly those closest to the appeal site, will change significantly;

- existing boundary treatment will provide some mitigation, but this will be inadequate due to its sporadic nature, largely deciduous species and its height when compared to the 9-storey parts of the development;
- the impact of the eastern building is less severe due to the distance of existing properties from the site, but the Proposed Developments will still have adverse overbearing and outlook impacts; and
- the relationship of the western building to properties to the east will result in a loss of privacy both in terms of window-to-window relationships and window-to-rear garden relationships.

3.10 Concerns were raised from neighbours as a result of publicity and notification of the Proposed Developments that the proposed buildings will adversely impact neighbouring amenity enjoyed at properties surrounding the Appeal Site, particularly overbearing, loss of privacy and loss of light.

Other issues

3.11 The Council will set out in evidence:

- that, as set out in both committee reports, the development would lead to less than substantial harm to the significance of designated heritage assets;
- that the decision maker, in determining whether to allow the appeal, must consider such harm afresh in line with their statutory duties under s66 for listed buildings and s72 for conservation areas⁷; and
- the buildings and areas that are harmed by the Proposed Developments and the extent of that harm to the significance of those heritage assets in order to assist the Inspector in discharging his statutory responsibilities.

3.12 The Conservation Areas that are potentially affected are Woodcote and Salt Lane. The Listed Buildings that are potentially affected include:

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

⁷ Planning (Listed Buildings and Conservation Areas) Act 1990

- Woodcote Green House (Grade II*)
- The White Horse PH (Grade II)
- The Hylands (Grade II*)
- 67-69 Dorking Road (Grade II)
- 71 Dorking Road (Grade II)

3.13 Concerns were raised from neighbours as a result of publicity and notification of the Proposed Developments that the proposed buildings will adversely impact on local conservation areas.

Planning Conditions

3.14 Without prejudice to the Council's case in this appeal, the conditions set out in the two reports to planning committee (and associated update reports) have been reconsidered and two new sets of conditions produced designed to control the development and mitigate its impact in the event that the appeal is allowed.

3.15 The conditions were reviewed in the context of the statutory tests⁸, the NPPF⁹ and the guidance in the PPG¹⁰, as well as recent legislative and policy changes. The Council have agreed a set of conditions for each appeal with the appellant in advance of the Inquiry and this is set out in the Statement of Common Ground and two separate Word documents (one for each set of conditions) as requested by the Inspector.

3.16 Any areas where there is a failure to agree conditions that are acceptable to the Council will be set out in the Council's evidence.

Section 106 Obligations

3.17 The recommendations to planning committee for both applications contained the heads of terms of planning obligations considered necessary by the Council to mitigate the impact of, or otherwise control, the Proposed Developments. These heads of terms have been agreed in the Statement of Common Ground.

3.18 The only area where there are matters of substance that remain to be finalised is the obligations associated with the affordable housing contribution.

⁸ s100ZA(2) of the Town and Country Planning Act 1990

⁹ Paragraphs 55 to 56 of the National Planning Policy Framework February 2019

¹⁰ <https://www.gov.uk/guidance/use-of-planning-conditions>

- 3.19 With respect to both schemes, the Appellant intends to undertake a revised viability assessment to take account of updated costs and, in respect of Appeal A, to take account of the reduction in the size of the Appeal Scheme following the amendments to the scheme.
- 3.20 The Council accepts that the affordable housing contribution for Appeal A needs to be adjusted pro-rata from the position agreed in the Statement of Common Ground dated 11 June 2021 for the unamended scheme to take account of the reduction in the size of the scheme in the amended version of Appeal A. The Council does not agree that a revised viability assessment is necessary to take account of updated costs and to deal with the reduction in the size of Appeal A Scheme given that there were agreed positions with respect to viability for both appeals as recently as 11 June 2021 for Appeal A and 22 April 2021 for Appeal B.
- 3.21 Otherwise, good progress is being made on negotiating and completing the two agreements prior to the inquiry. Any failure to agree obligations that are acceptable to the Council will be set out in the Council's evidence.

Conclusions

- 3.22 The Council's evidence will draw together its analysis of the benefits of the Proposed Developments and summarise the harm that they cause to enable a proper planning balance to be performed which, in line with section 38(6)¹¹, will be primarily informed by the development plan and weighed against any other material considerations.

¹¹ Planning and Compulsory Purchase Act 2004