Application No: 2017/1426  
Application Type: FULL

Case Officer: Matthew Briant  
Ward: Hersham Village

Location: 26 Green Lane Hersham Walton-On-Thames Surrey KT12 5HD

Proposal: A pair of semi-detached two-storey houses with rooms in the roofspace and detached garage to rear of Plot 1 with access from Burlea Close and widening of existing access on Green Lane following demolition of existing single storey house

Applicant: Mr P Franey  
Agent: Mr Paul Hooper  
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Decision Level: If Permit – Sub-Committee  
If Refuse – Sub-Committee  
Recommendation: Permit

Representations: 8 objections received from 8 individual households. The issues raised concern:

- Access from Burlea Close – it is a narrow road with parking issues and is regularly used by ambulances and caring staff, leading to highway safety concerns;
- Insufficient on-site parking provision;
- Inaccurate dimensions of the site on the plans;
- 2m high separation fence between the houses is too high;
- Side window of No. 24 is a size indicative of a bedroom window and is believed to have been obscurely glazed on the grounds of privacy and outlook;
- Proposed side wall and fence would be too high and there would be an inadequate separation distance, impacting on light of No. 24;
- Objections to light survey concerning No. 24’s outbuildings and the results reached – there would still be a loss of light and there are inaccuracies in para. 14 of Planning Statement in relation to light;
- Out of character in the area due to height and a cramped and overbearing appearance which would be dominant in the street scene and overshadow the adjacent cul-de-sac;
- Precedent set by 2014/1414 where an additional two-storey house was refused at No. 28 due to impact on No. 26;
- Potential for parking issues as the road is already busy;
- Disruption to road in terms of noise, dirt and movements;
- Overlooking;
- High risk of surface water flooding.

Report

Description

1. The site consists of a detached bungalow located on the west side of Green Lane, Hersham in the Design and Character Sub-Area of HERO2: Queensway, Robinsway and Green Lane Environs. There is a detached garage to the north of the bungalow and an existing vehicular access from Burlea Close to the rear.
Constraints

2. The relevant planning constraints are:
   - Strategic view
   - Surface water flooding – Medium risk

Policy

3. In addition to the National Planning Policy Framework and the National Planning Practice Guidance, the following local policies and guidance are relevant to this pre-application enquiry:

   Core Strategy 2011
   CS1 – Spatial strategy
   CS2 – Housing provision
   CS5 – Hersham
   CS14 – Green Infrastructure
   CS17 – Local character, density and design
   CS21 – Affordable housing
   CS25 – Travel and accessibility
   CS26 – Flooding
   CS28 – Implementation and delivery

   Development Management Plan 2015
   DM1 – Presumption in favour of sustainable development
   DM2 – Design and amenity
   DM6 – Landscape and trees
   DM7 – Access and parking
   DM8 – Refuse, recycling and external plant
   DM10 – Housing

   Design & Character SPD 2012
   Companion Guide: Hersham

   Developer Contributions SPD 2012

   Flood Risk SPD 2016

4. Relevant Planning History

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Decision</th>
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<tbody>
<tr>
<td>2016/0072</td>
<td>A pair of semi-detached two storey houses with rooms in the roof space and detached garage to rear for Plot 1 with access from Burlea Close and widening of existing access on Green Lane following demolition of existing single storey house</td>
<td>Withdrawn</td>
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| 2015/0330  | A pair of semi-detached two storey houses with rooms in the roof space, dormer windows and detached garage to rear for Plot 1 with access from Burlea Close following demolition of existing single storey house. | Refused for the following reason:  
1. The proposed dwellings, by reason of their height and scale including a bulky roof design, would appear cramped on the plot and would not respect the general context of the street scene, resulting in a detrimental impact on the character of the area. They would also result in harm to the amenity of the neighbouring dwellings by reason of an overbearing impact on Cherry Croft and 24 Green Lane, and a loss of light to the side facing bedroom window of No. 24. |
2014/1414  Additional detached two storey house following demolition of existing single storey side extension at 28 Green Lane.  

Refused for the following reason:

1. Due to a cramped appearance that would be detrimental to the character of the area, harm to the residential amenity of both No.26 and 'Cherry Croft', and failure to secure necessary financial contributions.

2012/3397  Additional detached two-storey house at ‘Corners’ 18A Brampton Gardens.

Refused for the following reasons:

1. The proposed dwelling would appear cramped on its plot and would not respect the general context of the area that would be detrimental to the character of the area around Brampton Gardens and Green Lane.

2. The application does propose to make any payments for Infrastructure and Service Contributions and Affordable Housing in accordance with the Council’s Planning Obligations and Infrastructure Provision Supplementary Planning Document adopted in April 2008 and the Core Strategy.

2011/6440  Additional detached two-storey house at 18A Brampton Gardens.

Refused, dismissed at Appeal:

1. Due to a cramped appearance that would be detrimental to the character of the area, harm to the outlook of occupiers of the proposed house, and failure to secure necessary financial contributions.

2006/2921  Single storey dwelling with additional rooms in roof space on land adjacent to 7 Burlea Close.

Refused but allowed at Appeal

ELM/77/65  Extension to garage.

Permitted and implemented.

WAL/1954/2 344  Erection of a detached bungalow.

Permitted and implemented.

WAL/1953/2 282  Erection of a single storey dwelling house.

Outline permission granted.

Proposal

5. Planning permission is sought for a pair of semi-detached two-storey houses with rooms in the roofspace, a detached garage to the rear of Plot 1 with access from Burlea Close and the widening of the existing access on Green Lane, following the demolition of the existing single storey house.

6. The footprint of the building would be some 14.2-15.2m in depth (excluding the front bay windows) and 12.6m in width, the first floor depth would be 11m. The building would have a hipped roof on all sides with a small crown roof and two projecting front gables over the bay windows. The roof would have eaves height of 5.8m and height of 9m to the apex of the roof. The current proposal is similar to the previously refused scheme (2015/0330) in that it would involve the erection of a pair of two-storey semi-detached dwellings but the houses would be 800mm lower in height, 400mm narrower in width, and Plot 1 would be 1.25m shorter in depth resulting in a larger garden. The proposed dwelling to the north (Plot 2) would have a 1.5 metres set back at first floor level by the shared boundary with No.24, increasing to 3.3m towards the rear.

Consultations

7. Surrey County Highways Authority – Based upon the information supplied the Highway Authority has assessed the impact of the proposal on highway safety and raised no objections subject to informatives. The proposals are considered to be in accordance with policies CS25, DM7 and the NPPF.

8. Natural England – No comments to make.

Positive and Proactive Engagement

9. In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of 186-187 of the NPPF by making
available pre-application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.

10. Pre-application advice was sought under reference PreApp1343504. The applicant was advised that there were still some issues regarding the relationship with neighbouring properties, although the amendments to the previous refused and withdrawn schemes appear to be an improvement. The need for a contribution towards affordable housing and also the adoption of the Flood Risk SPD was also advised which would now generate the requirement for a Flood Risk Assessment on any application to address flood risk from surface water flooding.

Planning considerations

11. This application follows a previously refused application (2015/0330). It was refused as, by reason of their height and scale including a bulky roof design, the houses would have appeared cramped on the plot and would not have respected the general context of the street scene, resulting in a detrimental impact on the character of the area. They would also result in harm to the amenity of the neighbouring dwellings by reason of an overbearing impact on Cherry Croft and 24 Green Lane, and a loss of light to the side facing bedroom window of No. 24. As such, the current proposal would need to overcome these reasons for refusal in order to attain planning permission. The main planning considerations in the determination of this application are:

- The design of the proposal and its impact on the character of the area and the street scene
- The impact on the amenity of neighbouring properties
- Provision of a suitable residential environment
- Parking and accessibility
- Financial considerations

The design of the proposal and its impact on the character of the area and the street scene

12. The current proposal is an improvement on the previous refused scheme as there has been a reduction in the overall scale, particularly to the roof which is now hipped on all sides and has a lower apex. Additionally the current proposed front gable elements are smaller in width and height than previously proposed. A minimum of a 1m gap is proposed to each of the side boundaries on the plot (a minimum separation of 1.5m to the adjacent bungalow at No. 24) in accordance with the Design and Character SPD and the reduction in height and width of the roof would help to alleviate the previous concerns regarding a cramped appearance and overbearing appearance within the street scene.

13. The proposed detached garage to the rear would be on existing hardstanding and served by an existing vehicular access from Burlea Close. No new access is being created and the parking to the front would also be served by existing vehicular crossovers. The garage is small in scale and would be adjacent to the neighbouring Cherry Croft’s car port. Consequently, it would not be an alien feature in the Burlea Close street scene or result in harm to character of the area.

The impact on the amenity of neighbouring properties

14. The proposed houses would not breach the 45 degree line of sight from the nearest rear-facing habitable room windows of both the adjacent bungalow (24 Green Lane) and 28 Green Lane to the south (the two-storey part does not breach the 45 degree angle and the single storey part would be more than 8m away). However, it would be directly opposite and in close proximity of a ground floor side/south facing window of No. 24 which serves a bedroom. This window is obscurely glazed and, since the previous refusal, the original plans for No. 24 have been located. They indicate that this room has always been habitable (originally a study) but that the window was not originally obscurely glazed. The outlook of this bedroom window is already restricted by the obscure glazing and also the presence of the neighbouring garage opposite. As such, it is not considered that the proposed development would result in a
significant increase in harm to this window in terms of a loss of outlook or overbearing appearance, thus overcoming this part of the previous reason for refusal.

15. The revised scheme would improve the potential lighting to the neighbouring bedroom window by reason of the reduced roof bulk and eaves height, together with a slightly greater separation from the boundary (1.5m as opposed to 1m) on the main bulk of the house and stepping away from the boundary a further 1.8m (approx.) at first floor level directly opposite the window of concern. However, this south-facing bedroom window will suffer from some reduction in day/sun light as the new houses would fail to accord with both the 45 degree rule and the Building Research Establishment’s (BRE) ‘25 degree rule of thumb’ due to the height of the proposal. A Daylight and Sunlight Study has been submitted with the application documents which finds that ‘all main habitable room windows pass the [BRE’s] Vertical Sky Component test and the Daylight Distribution test,’ and, ‘all main habitable room windows [which the bedroom was correctly identified to be (Window 17)] pass both the total annual sunlight hours test and the winter sunlight hours test (annual probably sunlight hours between 21 September and 21 March).’ The report concludes that, ‘the proposed development will have a low impact on the light receivable by its neighbouring properties.’

16. It is noted that the neighbouring residents disagree with the findings of the Daylight and Sunlight Study but the assessment methodology appears to be sound, following BRE guidance. Therefore, given its conclusion that the potential loss of light is within acceptable limits, it is considered that there is sufficient justification to overcome the previous reason for refusal regarding the potential loss of light of No. 24.

17. In relation to the previous reason for refusal concerning an overbearing impact on Cherry Croft to the rear, the revised scheme is shifted 1.25 away from Cherry Croft, allowing a distance of some 14.5 metres to the rear elevation of Cherry Croft in which there is a first floor dormer window. This dormer is small in size and appears to serve a non-habitable circulation space. The limited separation of the proposal from Cherry Croft still raises concerns but the siting of Cherry Croft is unusual in itself given the previous subdivision of the adjoining site. Furthermore, the existing carport of Cherry Croft on the boundary with the site would reduce the visual impact of the proposed development on the neighbouring garden land and any ground floor windows. Whilst not providing an ideal relationship with Cherry Croft, on balance the proposal is considered to be acceptable given the likely impact in terms of outlook, lighting and privacy would be restricted.

Provision of a suitable residential environment

18. Proposed new residential development should provide an appropriate level of lighting, outlook and amenity to all habitable rooms and be of suitable space standards. Developments are also expected to enhance existing landscaping and allow visual interest and amenity that provides a setting for the proposed development.

19. The room sizes, garden lengths and landscaping are considered appropriate to provide a suitable living environment for future occupiers in this instance. The proposed fence heights of 2m would accord with permitted development rights and as such would be considered acceptable. A designated area for bin storage is not detailed on the plans but there is ample space on site for bins to be stored without resulting in harm to amenity.

Parking and accessibility

20. The existing house has one off-street parking space at the rear of the site with the vehicular access on Burlea Close. This space is proposed to be retained within a new single garage building which would be small in scale. Additionally, four car parking spaces are proposed to the front of the house utilising the existing accesses. Consequently the proposal would provide 3 off-street parking spaces for Plot 1 and 2 off-street parking spaces for Plot 2. The Council’s adopted parking standards require 4-bed dwellings to provide a maximum of 2 car parking spaces per unit in edge of town centre locations, which would amount to four spaces in total on site to serve the new houses. However, despite these being maximum standards, the area could be considered to be one of parking stress and as such an over-supply of off-
street parking provision is not considered to be detrimental to the proposed development. The County Highway Authority raises no objections to the proposal and as such, the proposed parking provision is considered to satisfy policy DM7 of Elmbridge Local Plan April 2015 & CS25 of the Elmbridge Core Strategy.

Flooding

21. The submitted Flood Risk Assessment (FRA) states that there would be a 28% increase in the footprint of the buildings on site, much of which would be on existing hardstanding. Whilst the risk of surface water flooding to neighbours and on the site itself is relatively low the FRA states that mitigation will be included in the form of an additional soakaway. Each house will also have a water butt for rainwater harvesting and garden irrigation. A Personal Flood Plan is not required as the site falls within Flood Zone 1.

Financial considerations

22. Section 70 subsection 2 of the Town and Country Planning Act 1990 (as amended) states that any local financial considerations are a matter to which local planning authorities must have regard to in determining planning applications; as far as they are material for the application. The weight to be attached to these considerations is a matter for the Council.

23. The New Homes Bonus is a grant paid by central government to local councils for increasing the number of homes and their use. The New Homes Bonus is paid each year for 6 years. It is based on the amount of extra Council Tax revenue raised for new-build homes, conversions and long-term empty homes brought back into use. There is also an extra payment for providing affordable homes. The Council’s New Homes Bonus Scheme Grant Determination for 2017/18 is £1.89m (approx.).

24. Local financial considerations are defined as grants from Government or sums payable to the authority under the Community Infrastructure Levy (CIL). This means that the New Homes Bonus is capable of being a material consideration where relevant. In the current case, the approval of the application would mean that the New Homes Bonus would be payable for the net increase in dwellings from this development.

25. Policy CS21: Affordable Housing of the Council’s Core Strategy (2011) requires that development resulting in the net gain of 1-4 residential units should provide a financial contribution equivalent to the cost of 20% of the gross number of dwellings on site as Affordable Housing. Contributions towards affordable housing would need to be secured via a unilateral undertaking.

26. Following a Court of Appeal decision which found in favour of the Government, paragraphs 012-023 of the National Planning Policy Guidance on planning obligations have been reintroduced. These paragraphs and the Written Ministerial Statement (WMS) are now a material consideration, alongside local planning policy, against which the Council must consider all planning applications. However, given that the local plan remains the primary consideration against which decisions must be made, the Council is continuing to apply policy CS21 Affordable Housing as set out in the Core Strategy. Following receipt of legal advice, the Council has produced a statement to set out local evidence in support of continuing to apply policy CS21 to this application in light of the revised PPG. This is available to view on the Planning Services webpages:

27. On a recent appeal (Ref: APP/K3605/W/16/3146699), and several subsequent appeals, it was considered that the approach in Policy CS21 was consistent with Paragraphs 47 and 50 of the NPPF, which require local planning authorities to meet the full, objectively assessed needs for market and affordable housing and where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

28. The Inspector added that the application should be determined in accordance with the development plan unless there are material considerations which indicate otherwise, noting
the WMS as a material consideration of considerable importance and weight. The Inspector notes that the intention of the WMS is to ensure that financial contributions do not become a disproportionate burden for small scale developers and thus frustrate housing supply, and that there is a conflict between the national threshold relating to the provision of affordable housing in the WMS and the PPG and the local thresholds set out in Policy CS21 of the Core Strategy (CS), which he found to be consistent with the Framework. He states:

The effect of the national policy in the WMS is that it would normally be inappropriate to require any affordable housing below the thresholds stated. Nevertheless, whilst there is a presumption that a policy such as a WMS should be followed, especially as it postdates the CS, it is also important to acknowledge that a policy that is relevant to the matter in hand should not be applied rigidly or exclusively when material considerations may indicate an exception may be necessary. I therefore share the view of the Council that it is for the decision taker to weigh any conflict between relevant policies in light of material considerations, including local circumstances.

29. The Inspector also addressed the Council’s Statement on the Written Ministerial Statement (referenced above) and the significant difficulty in the delivery of affordable housing in the least affordable authority in England outside of London, noting that small sites make a significant contribution towards the delivery of affordable housing in the Borough. He also noted that there was no substantive evidence to demonstrate that the requirements of Policy CS21 are placing an unreasonable or disproportionate burden on developers. As a consequence, whilst the WMS carries considerable weight, the Inspector did not consider it to outweigh the development plan given the acute and substantial need for affordable housing in the Borough and the importance of delivery through small sites towards this. He concluded:

Consequently, on the basis of the evidence before me, it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the Community Infrastructure Regulations 2010. Accordingly, the proposal should be determined in line with the development plan.

30. As stated above, a number of other appeal decisions support this approach. However, it is acknowledged that the Council has lost some appeal decisions where consideration was given to the lack of 5 year housing land supply.

31. The Council published a new Strategic Housing Market Assessment in October 2016 as part of the review of the Core Strategy. This evidence set out a housing need for the Borough of 9480 (480 pa) between 2016 and 2036. As well as assessing the need for housing in general the SHMA also established the need for affordable housing at 332 units per year. As such the SHMA clearly shows that there is a significant need not only for housing in general but specifically for affordable homes in the Borough which means that Core Strategy policy CS2 - Housing provision, location and distribution could be considered to be out of date. The Council recognises that whilst it has as strong housing land supply to meet our housing target it does not have a five year land supply to meet identified housing needs and that policies for the supply of housing, i.e. CS2, should not be considered up to date.

32. However, other policies such as CS21 whilst relating to housing seek to determine the mix of housing delivered rather than supply. This narrow view of the definition of “policies for the housing supply” is supported by the Supreme Court judgement which states in paragraph 82:

“In my view the straight forward interpretation is that these words refer to the policies by which acceptable housing sites are to be identified and the five year supply is to be achieved. That is the narrow view.”

33. The Council therefore continues to apply weight to CS21 in determining planning applications recognising that the Development Plan continues to be the primary consideration for decision makers but that the NPPF is also a material consideration against which any decision is made.

34. In determining the weight that should be given to CS21 then it must be recognised that in trying to meet housing needs the Council must, as referred to in para 47 of the NPPF, ensure
that this is consistent with the policies set out in the plan as a whole. This position is reinforced by paragraph 14 which outlines that even where a plan is absent silent or out of date planning permission must be granted unless specific policies in this framework indicate that development should be restricted. Such policies include the Green Belt as referred to in footnote 9 to para 14. In determining the weight given to CS21 it is essential this context is understood fully. CS21 was prepared as a direct response to the restrictions placed on development by policies such as those set out in footnote 9. This limits the type of site available for development and means the majority of sites are small – less than 10 units and often under 1000sqm (see attached statement). As such CS21 is a positive policy seeking to boost the supply of affordable housing whilst also being consistent with the framework as whole as required by para 47. In particular it ensures the authority is consistent with para 50 of the NPPF which requires LPAs to “… set policies for meeting housing need on site, unless off site or financial contributions of broadly equivalent value can be robustly justified …”.

35. The policy also responds to the viability of development to ensure that is does not limit the overall delivery of housing. As the attached statement indicates the overall level of housing delivery has not been compromised by CS21 with housing continuing to be delivered within the constraints applied by the NPPF on the overall level of development in the Borough. In addition where development is made unviable by the policy the authority has set this requirement aside in line with CS21. This further emphasises CS21’s conformity with the NPPF which in para 173 requires LPAs to “… set policies for meeting housing need on site, unless off site or financial contributions of broadly equivalent value can be robustly justified …”.

36. As the SHMA has shown that there is a significant need for affordable housing locally the Council believes the SHMA, alongside both the Local Plan and NPPF, continues to justify the implementation of CS21, supports its conformity with the NPPF and as such means significant weight should continue to be given to this in any decision.

37. In the case of the current appeal, a Viability Assessment has been submitted and independently reviewed by the LPA’s viability consultants. Following the advice from our consultants it is evident that the proposed development would be rendered unviable should any level of contribution towards affordable housing be required. Consequently, it is agreed that no financial contribution is payable in this instance. The development does however fall under development which is liable for CIL.

Matters Raised in Representations

38. All relevant material planning considerations have been addressed above. In terms of issues regarding disruption during the construction, these would be dealt with under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. Furthermore, any unacceptable noise that could result from the residential development would be a matter for Environmental Health if such an issue arose. However, it is not expected that the proposal would generate noise greater than would normally be expected from a residential development.

Conclusion

39. On the basis of the above, and in light of any other material considerations, the proposal is considered to be in accordance with the development plan. Accordingly, the recommendation is to grant permission.

Recommendation: Grant Permission

Conditions/Reasons

1 TIME LIMIT (FULL APPLICATION)
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 51 of Part 4 of the Planning and Compulsory Purchase Act 2004.

2 LIST OF APPROVED PLANS
The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: Location Plan, Block Plan and drawings numbered 1392 / 300 C, 301 C and 303 D received on 04 May 2017, and 1392/302 E received on 08 May 2017.

Reason: To ensure that the development is carried out in a satisfactory manner.

3 MATERIALS SAMPLES
NO DEVELOPMENT SHALL TAKE PLACE UNTIL SAMPLES OF THE MATERIALS TO BE USED ON THE EXTERNAL FACES AND ROOF OF THE BUILDING HAVE BEEN SUBMITTED TO AND APPROVED IN WRITING BY THE BOROUGH COUNCIL. DEVELOPMENT SHALL BE CARRIED OUT IN ACCORDANCE WITH THE APPROVED DETAILS.

Reason: To ensure that a satisfactory external appearance is achieved of the development in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015. It is considered necessary for this to be a pre-commencement condition because the use of satisfactory external materials goes to the heart of the planning permission.

4 OBSCURE GLAZING
The first floor windows on the side elevations of the development hereby permitted shall be glazed with obscure glass and fitted with non-opening principal lights, and subsequently maintained in this form. Such glass shall be sufficiently obscure to prevent loss of privacy. The affixing of an obscure film will not be sufficient.

Reason: To preserve the reasonable privacy of neighbouring residents in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.

5 FLOOD RISK MITIGATION
All flood mitigation measures shall be carried out in accordance with the approved details set out in paragraphs 4.11 and 4.12 of the Flood Risk Assessment prepared by Graham A. Fryer received on 04 May 2017.

Reason: To reduce the overall and local risk of flooding and to comply with policy CS26 of the Elmbridge Core Strategy (adopted 2011) and the Flood Risk SPD (adopted 2016).

Informatives

1 COMMUNITY INFRASTRUCTURE LEVY
The development permitted is subject to a Community Infrastructure Levy (CIL) liability for which a Liability Notice will be issued as soon as practical after the day on which planning permission first permits development.

To avoid breaching the CIL regulations and the potential financial penalties involved, it is essential a prior commencement notice be submitted. A blank commencement notice can be downloaded from http://www.planningportal.gov.uk/uploads/1app/forms/form_6_commencement_notice.pdf. For the avoidance of doubt commencement of demolition of existing structure(s) covering any part of the footprint of the proposed structure(s) would be considered as commencement for the purpose of the CIL regulations.
BLOCK PLAN

SCALE: 1:500

DATE: APR '17

SITE

26 GREEN LANE
HERSHAM
SURREY

61 NO NEW 4 BED SEMI-DETACHED PROPERTIES.

APPLICATION 3
(N° 300 PROJ)

GREEN LANE