Report To South Area Planning Sub-Committee – List A – Applications For Decision

<table>
<thead>
<tr>
<th>Application No:</th>
<th>2017/1494</th>
<th>Application Type:</th>
<th>FULL</th>
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<tbody>
<tr>
<td>Case Officer:</td>
<td>Tom Scriven</td>
<td>Ward:</td>
<td>Cobham and Downside Ward</td>
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<tr>
<td>Location:</td>
<td>The Glashaus 74 Portsmouth Road Cobham Surrey KT11 1HY</td>
<td>Proposal:</td>
<td>Development comprising of 2 No. part three/part four storey blocks with ground floor link to provide 53 (age restricted) residential units with associated parking, landscaping and amenity areas following demolition of existing building</td>
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<tr>
<td>Applicant:</td>
<td>PegasusLife</td>
<td>Agent:</td>
<td>Mr David Maher Barton Willmore The Observatory Southfleet Road Ebbsfleet Dartford DA10 0DF</td>
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<tr>
<td>Decision Level:</td>
<td>If Permit – Sub Committee If Refuse – Sub Committee</td>
<td>Recommendation:</td>
<td>Refuse</td>
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Representations: Seventeen letters of objection were received in relation to this application the contents of which can be summarised as follows:
- Density of development
- Overdevelopment of the site
- Cumulative impact of multiple developments
- Scale and appearance out of character with the area
- Height of proposed building
- Impact on views from playing field
- Impact upon listed building
- Impact on traffic congestion
- Impact on air pollution
- Impact on landscaping and lack of space for appropriate landscaping and screening
- Loss of employment land
- Impact upon local infrastructure
- Impact upon neighbouring amenity
- Overbearing impact upon neighbours
- Loss of light
- Loss of privacy
- Noise and light pollution
- Loss of privacy to playground
- Original proposal was much smaller
- Lack of public consultation prior to application
- Difficulty in interpreting plans and lack of dimensions
- Relevant policies
- Applicant unnecessarily critical of Council policies
- Applicant reliance on emerging local plan

One letter of comment was received in relation to the application the contents of which can be summarised as follows:
- Brownfield sites should be used as efficiently as possible in order to reduce pressure on Green Belt land
- It would have been desirable for applicant to consult immediate neighbours
One letter of support was received in relation to the application the contents of which can be summarised as follows:

- Range of occupants will make good neighbours for the bowling club
- Bowling club would welcome new members

The application has been promoted to the Sub Committee by Cllr Browne if the recommendation is to permit and Cllr Mitchell if the recommendation is to refuse.

***This application qualifies for public speaking***

Report

Description

1. The site extends to 0.6 hectares and comprises the two storey office building known as The Glashaus as well as parking areas and access from Portsmouth Road to the north. The vehicular parking areas are located to the south and west of the building. The site is located within the COS01 Cobham District Centre character area as set out in the Council’s Design and Character SPD. The area is characterised by a mix of commercial and residential uses.

Constraints

2. The relevant planning constraints are:
   - Thames Basin Heath 5km Buffer Zone
   - Strategic Employment Land
   - Flood Zone 2
   - Surface Water Flooding Risk Medium/High
   - Designated ‘A’ Road

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 the determination of this application:

Core Strategy 2011
CS1 – Spatial Strategy
CS2 – Housing provision, location and distribution
CS10 – Cobham
CS13 – Thames Basin Heath Special Protection Area
CS17 – Local Character, Density and Design
CS19 – Housing type and size
CS21 – Affordable Housing
CS23 – Employment land provision
CS25 – Travel and Accessibility
CS26 – Flooding

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
DM11 – Employment

Design & Character SPD 2012

Developer Contributions SPD 2012
4. Relevant Planning History

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Decision</th>
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<tr>
<td>2017/0358</td>
<td>PD Prior Notification: Change of use from Office (B1a) to Residential (C3)</td>
<td>Granted</td>
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<tr>
<td>2007/1908</td>
<td>New entrance canopy</td>
<td>Granted</td>
</tr>
<tr>
<td>1998/0571</td>
<td>Extension of car park</td>
<td>Granted</td>
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<tr>
<td>1958/0937</td>
<td>Display of canopy and pole mounted illuminated signs</td>
<td>Granted</td>
</tr>
<tr>
<td>1982/1030</td>
<td>Erection of two storey office block following demolition of existing office and laboratory</td>
<td>Granted</td>
</tr>
<tr>
<td>1982/0222</td>
<td>Erection of two storey office building with provision of 27 car parking spaces following demolition of existing office and laboratory</td>
<td>Granted</td>
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Proposal

5. This is a planning application for development comprising of 2 No. part three/part four storey blocks with ground floor link to provide 53 (age restricted) residential units with associated parking, landscaping and amenity areas following demolition of existing building.

Consultations

6. Surrey SUDS – Initially raised a number of queries about the drainage strategy submitted. Following the submission of further information they confirmed that they raised no objection to the proposal subjection to conditions to ensure that the SuDS scheme is properly implemented and maintained throughout the lifetime of the development.

7. Environmental Services – Advise that all units should have sufficient space in the kitchen to segregate recyclable and non-recyclable waste. Confirm that the bin capacity is sufficient for the development and there is sufficient space for storage and collection. They also advise that there is adequate space for the collection vehicle to enter and manoeuvre within the site.

8. Trees – Note that there is significant tree removal proposed within the site. As a result the officer considered that a robust tree planting scheme should be sought to address this. He notes that some information has been submitted however this isn’t sufficient to fully assess the landscaping. He also suggests that the retention of T40 and T41 would be preferable to removal. Finally he suggests that T27-31 are close to development and it would be better to remove them subject to appropriate replanting. In principle the proposal is considered acceptable however this is subject to a more detailed landscaping scheme in order to ensure adequate replacement planting can be achieved. Following these comments further landscaping information was submitted including the retention of T40 and T41. This is commented upon further by the Heritage, Landscape and Tree Manger.

9. Surrey County Council Archaeology – Note the desk based assessment submitted by the applicant which indicates that the site has been subject to significant ground disturbance. Given the low archaeological potential of the site and the degree of modern disturbance they consider it unlikely that an heritage assets or archaeological significance will remain in situ. As such they recommend that there is no requirement for any further archaeological consideration in relation to this application.

10. Environmental Health – Contaminated Land – Raise no objection to the proposal subject to the imposition of conditions in relation to potential contaminated land and an intrusive demolition asbestos survey.
11. Natural England – Note that the application is within the Thames Basin Heaths SPA 5km buffer zone. They raise no objection to the proposal subject to a financial contribution to mitigate against the impact upon the SPA as required through the local policies/strategies/SPDs.

12. Surrey Police – Advise that the agent contacted them to discuss the Secured by Design Scheme. They have recommended that a condition be imposed on any permission requiring that a full and detailed application for the Secured by Design award scheme be submitted prior to the commencement of development.

13. Surrey Bat Group – Initially raised concern regarding the lack of surveys with the ecological report. These were subsequently submitted by the applicant. The Bat Group confirmed that the updated survey had been carried out in line with best practice and are sufficient to determine the application. They recommend that a condition be imposed on any permission requiring the proposed enhancements are adopted in the development.

14. Surrey Wildlife Trust – Advise that the preliminary ecological appraisal and emergence surveys are sufficient for the application to be determined. They suggest that the applicant should be required to undertake the mitigation and enhancement actions as detailed in these ecological reports.

15. Heritage, Landscape and Tree Manager – Notes the comprehensive heritage statement submitted with the application and agrees with the findings and conclusions. However she raised concerns regarding the proposed landscaping and in particular the lack of detail submitted with the landscaping. She notes that the proposal is for substantial development of the site which leaves little space for the retention of trees or the provision of new planting. She considers that planting is necessary to break up the appearance of the building and to contribute to the amenity space for future occupants. Whilst the development is broken up by the construction of linked block it would still have substantial form and mass which requires a proportionate landscaping setting. She notes that other apartment buildings in the locality benefit from underground parking and it this could be considered to provide adequate space for amenity and landscaping. Following these comments the applicant did submit further landscape information. The Heritage, Landscape and Tree Manager noted that this showed two existing trees as being retained but otherwise there was little additional information and no change to the layout. She therefore considers it unlikely that, given the quantity of built development, planting of a sufficient scale and quality can be delivered. As such her original concerns remain.

16. Environmental Health – Raise no objection to the proposal subject to the imposition of conditions relating to dust, boiler emissions, burning on site and vehicle charging points along with an informative relating to the control of pollution and noise during construction.

17. Surrey County Council – Assessed the proposal on the basis of highway safety, capacity and policy grounds and raised no objection to the proposal subject to the imposition of conditions and legal agreements in relation to highway improvements. This included public transport improvements, a pedestrian route through the site, parking and turning on the site, a construction management plan and provision of for sustainable modes. They provided additional notes in relation to the above suggested conditions and in particular noted that 106 cycle space would be needed and it wasn’t clear where these would be provided.

Positive and Proactive Engagement

18. 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.

19. Pre-application advice was sought prior to the submission of the application under reference PreApp1399648. The scheme was already at an advanced design stage at the time of the pre-application enquiry and the application is for broadly the same proposal with some minor
changes. In the pre-application enquiry the applicant was advised that the site was within an area of strategic employment land and that the change of use would be contrary to policy CS23. As a result it was suggested that clear justification would need to be put forward as to why the loss of employment land would be acceptable. The fall back permission in terms of the prior approval on the site was noted however it was considered that this was unlikely to be a realistic proposition and therefore the justification already mentioned would be necessary. It is noted that the applicant submitted a cover letter with the application stating that this was not covered during the initial pre-application meeting. Whilst the Council accepts this could have been covered in the meeting the position was made quite clear in the written response following consultation with the Council’s Planning Policy Team. As such the pre-application response fully covered this issue in order to give the applicant opportunity to address these concerns in the submission of the application.

20. In terms of the scale of the proposal and impact upon the character of the street scene and wider area. It was considered that given the significant set back from the streets scene this was likely to be acceptable. However in terms of the detail of the design it was noted that this was at an advanced stage and therefore it was difficult to suggest alterations to the scheme. In order to properly asses and develop a scheme of this scale it was suggested that it be subject to a design panel review to ensure this is the best form of development and delivers efficient use of the land. Turning to neighbouring amenity it was considered that the retained separation distances made it unlikely that there would be a significant loss of light or overbearing impact. However there were some concerns in terms of the potential impact upon privacy to neighbours along White Lion Gat particularly from fourth floor level. It was acknowledged that consideration should be given to the existing situation, however consideration needed to be given to the number of windows facing towards neighbours amenity space. As with the design elements it was difficult to suggest significant alterations given the advanced stage of the design. All these comments were subject to the caveat that no site visit took place as part of the pre-application enquiry.

21. The advice from the pre-app was that there was concern that the principle of development may not be acceptable and any application would need to include sufficient evidence to demonstrate that the loss of the office space on this Strategic Employment Land is acceptable. The overall design of the scheme could be acceptable however it was recommended that this be further assessed through a design panel review. Finally the main area of concern regarding neighbouring amenity was in terms of the potential for loss of privacy.

Planning Considerations

The main planning considerations in the assessment of this enquiry are:

- Principle of development
- The design of the proposal and its impact on the streetscene and the character of the area
- The impact on the amenity of neighbouring properties
- The provision of a suitable residential environment
- The impact on highways and parking
- The impact on trees
- The impact on flood risk
- Developer contributions

Principle of development

22. The site is located within an area of Strategic Employment Land for which policy CS23 of the Council’s Core Strategy has a presumption against the loss of employment provision. This policy states that alternative uses will only be allowed where development does not result in an overall loss of employment provision and where a surplus of Strategic Employment Land is identified. In addition to the above the introduction of an alternative use should not detract from the integrity and function of the site for employment purposes. The proposal would clearly result in the loss of an employment function on the site and given the small overall size
of this area of Strategic Land it could not fail to detract from the integrity and function of the site for employment purposes.

23. As the proposal is clearly contrary to the above policy very clear justification would need to be put forward as to why the loss of the employment land would be acceptable. The Council would normally require a clear marketing exercise over an extended period of time (12-18 months) to demonstrate that there is no reasonable prospect of the continued use of the site as an office beyond the existing tenancy period. This is also required by policy DM11 in terms of the loss of employment land. In this instance no such marketing exercise has been undertaken to justify the loss of this employment land. Instead the applicant has chosen to rely on a number of other factors to justify the change of use and loss of employment land. These can be broadly summarised as follows:

- Fall back position – Prior approval 2017/0358 for change of use of the existing building to residential
- The surplus of commercial office space
- Previous permissions granted for the change of use of office space
- The Council’s lack of a 5 year housing land supply
- Policy CS23 of the Core Strategy (2011) being out of date and therefore the application should be considered against the National Planning Policy Framework 2012
- The Settlement ID plans and intention to remove the SEL designation
- The identified need for older persons accommodation

24. Turning firstly to the fall back position established through prior approval 2017/0358 for the change of use of the existing building the applicant considers this should be afforded significant weight in that the change of use of the land could take place without further planning permission. In support of this they have attached an appeal decision (APP/B4215/W/15/3135001) where the inspector gave significant weight to a previous prior approval for change of use in determining an application for the change of use of 3 retail units to 6 self contained flats. There are, however consistent references within this appeal decision as to whether or not the change of use under permitted development rights represents a realistic fallback position. In the case of this particular application the Council’s view is that the prior approval does not represent a realistic fallback position due to the likely difficulty in converting the existing building and the viability appraisal put forward with the application which suggests that even the larger scheme proposed would be unable to support a contribution towards affordable housing. In addition the applicant’s website states “At this stage, PegasusLife has applied for ‘prior notification’. This is a technical application for the use of the building to change from its current use as office space to residential space.” They go on to say that if the prior approval for change of use was granted an application for the demolition of the existing and replacement with a new building of 53 flats would be submitted. The above would tend to support the view that the prior approval was never intended to be implemented, is impractical and unviable, therefore in the Council’s view there is no realistic possibility of this taking place. In response to this the applicant submitted the High Court judgement Zurich Assurance Ltd v North Lincolnshire Council (2012) on the relevance of a fall back position. In particular they quote paragraph 75 of the judgement which states:

“The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration.”

This does go on to say that the “Weight is, then, a matter for the planning committee.” On the basis of the above it is clear that the fall back position does form a material consideration in the determination of the application. Although the judgement does suggest it has to be more than a theoretical prospect. It isn’t clear to what extent the prior approval is more than a theoretical prospect due to the lack of information as to how this would be implemented. There is clearly a prior approval which could be implemented which would constitute a theoretical prospect but it isn’t clear how much the prior approval goes beyond this. In addition it is for the decision maker to determine the level of weight afforded to such a fall back position. In this instance whilst the prior approval is considered to have considerable weight this would not outweigh the full weight which is afforded to the Development Plan policies and the NPPF in terms of the loss of employment land.
25. Turning to the identified surplus of commercial office space it is acknowledged that the Council’s Employment Land Review (Addendum March 2011) confirmed that there was a surplus of office accommodation in the Borough and that demand was not anticipated to increase in the plan period. However the Elmbridge Commercial Property Market Study Update which is currently being finalised, identifies that there is a need for around 58,000 sqm of employment floorspace across the proposed 20 year Local Plan period up to 2035. In addition the Elmbridge and the Upper M3 remain areas of demand for office space which is already experiencing erosion of existing stock. On the basis of the most up to date evidence base there is a need for office space within the plan period. This is further supported by the current vacancy level of just over 10% which is broadly within the accepted range for a healthy market of 5-10%. In addition to this the office space should be viewed in the context of its quality and location. In this instance it is well located close to the A3 and appears to provide high quality office space which makes an important contribution within an area identified as being Strategic Employment Land. The applicant has pointed out that planning permission has been granted elsewhere for change of use of employment land. However every site must clearly be assessed on its own merits and the significant number of prior approvals have played a significant role in the changing level of demand for office space which has been identified. This demand therefore weighs against the loss of the employment land.

26. In terms of the issue of housing land supply it is noted that consideration should be given to 5 year housing land supply and in particular the impact this has on pre-NPPF policies. The applicants’ Planning Statement included the argument that due to the Council’s lack of 5 year housing land supply, and in accordance with paragraph 49 of the NPPF, policies relating to the supply of housing are out of date. This is said to include Policies CS23 and DM11. The Council consider that Policy CS23 does not relate to the supply of housing and therefore are of the opinion that policy CS23 would still continue to apply. As such full weight should be given to policy CS23 as it forms part of the development plan against which development should be assessed. However even if the above view is not taken the proposal would also be subject to policy DM11 which is post NPPF. This relates to non-strategic employment land and in such cases it is still expected that a marketing exercise would be undertaken in such instances.

27. Even if the argument were to be followed that the above policies are not up to date due to the lack of a 5 year land supply then paragraphs 18-22 of the NPPF would be relevant. These relate to delivering sustainable development and in particular building a strong, competitive economy. Paragraph 22 is particularly relevant as while policy should avoid the long term protection of sites allocated for employment use, this is only where there is no reasonable prospect of a site being used for that purpose. Therefore in considering the application against the provisions of the NPPF it is argued (as set out in paragraph 14) that the loss of the employment land would significantly and demonstrably outweigh the benefits. This view would support the need for a marketing exercise to be carried out as already set out above.

28. However, the Council is mindful that the presumption in favour of sustainable development highlighted in paragraph 49 is connected to paragraph 14 of the NPPF. Therefore, whilst it is acknowledged that the Council does not have a five year housing land supply and Policy CS2, a policy for the supply of housing, is considered to be out of date, this would mean that paragraphs 14 and 49 of the NPPF are engaged. In terms of paragraph 14, it is stated that where relevant policies are out of date, permission should be granted unless:
   • Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole,
   • Specific policies in this Framework indicate development should be restricted.

29. In this instance the proposal would provide 53 new residential homes and would be a positive contribution towards providing much needed housing for the Borough. However in this instance the benefit needs to be weighed against the adverse impacts of the scheme as a whole, namely the loss of employment land. As outlined above, the Council consider in this instance, that the loss of the employment land would significantly and demonstrably outweigh the benefits.
30. The applicant has made the case that Policy CS23 and the SEL designation should be offered very limited weight in the consideration of the proposal as the Council has previously stated that the application site currently designation as SEL, will be reviewed as part of the production of Settlement ID Plans (Elmbridge Borough Council Compatibility Self-Assessment Checklist). Furthermore, that the Settlement ID Plan Options Consultation (April 2013) for Cobham, Oxshott, Stoke D'Abernon & Downside confirms that it is proposed to remove the application site from the SEL designation. The applicant states that this should be afforded significant weight to the consideration of the application. Addressing these points and the weight to be afforded, regard must be given to the status of the Settlement ID Plans Options Consultation (April 2013) and the evidence on which they were based. It is also important to have an understanding of the wider policy context and the purpose of the Settlement ID Plans. In accordance with para. 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). In the case of the Settlement ID Plans, the Options Consultation was the first stage in the process of preparing the documents (Regulation 18). Furthermore, in October 2014 the Council announced that it was to prepare a new Local Plan and thus the preparation of the Settlement ID Plan ceased. Whilst it remains the Council's intention to review SEL (para. 4.28 of the Local Plan: Strategic Options Consultation, December 2016) given the circumstances noted above and the advice of the NPPF, it is considered that no weight can be given to the Settlement ID Plans nor the Compatibility Self-Assessment Checklist.

31. Finally the applicant has identified the need for older person housing as set out in the Kingston and North East Surrey Strategic Housing Market Assessment (SHMA) 2016. There is clearly a need for housing more generally and a particular need for housing of this type. In this aspect the proposed development scheme would make a positive contribution towards meeting this need in accordance with Policy CS20 - Older People of the Core Strategy.

32. However the Council’s view is that significant weight should still be attached to Policy CS23 as well as Policy DM11 and the NPPF. This strategic employment land makes an important contribution to the Borough with good quality office space in an accessible location. In the absence of a marketing exercise which clearly demonstrates that the site is no longer viable for this use it is considered that the proposal would result in a loss of employment land which would be harmful to the local economy. The benefits of the scheme and fall back position outlined by the applicant are not considered to outweigh the loss of employment land. Therefore the principle of the change of use is considered to be unacceptable.

33. Notwithstanding the concerns regarding the loss of Strategic Employment Land the site is located within an area where there is a mix of commercial and residential uses. The development would provide 53 residential units which would equate to approximately 88 dwellings per hectare. This would comply with the Council’s minimum requirement of 40 dph in town centre locations in order to make the most efficient use of the land. However this does not overcome the concerns above regarding the loss of employment land. The design of the proposal and its impact on the character of the area and the streetscene

34. Notwithstanding the principle consideration above, the siting, scale and design of the proposal must be considered. The proposal is for two part three/part four storey buildings to provide 53 age restricted flats following the demolition of the existing office building. There would be on site parking and a walled garden area which would include a link between the two buildings. The building includes variations in height and a varied building pallet in order to break up its appearance and provide some articulation and architectural interest. The proposal is set back from the street scene where views are likely to be limited by the existing buildings along Portsmouth Road. There is concerns over the extend of hardstanding and the lack of suitable space for sufficient landscaping to screen and break up the appearance of the building particularly in terms of the more extensive views available from the side and rear of the site. However when viewed in the context of the existing built form and hardstanding on the site in conjunction with the set back from the road and benefits of the housing provision (in isolation of the loss of the employment land) it is considered that the proposed siting scale and design is acceptable in the context of the street scene and the character of the wider area.
The impact on the amenity of neighbouring properties

35. In terms of neighbouring amenity the properties potentially impacted by the proposal are the residential units above the commercial units to the north east of the site on Portsmouth Road, the properties on White Lion Gate to the south east and the new development at 46 Portsmouth Road to the west.

36. The existing building on the site is visible from residential units on both Portsmouth Road and White Lion Gate. However the proposal would result in two substantial buildings sited in a different location to the existing. In relation to the nearest neighbours on White Lion Gate at No.17 and No.16 the proposed building would bring a significant structure in closer proximity to these properties and their amenity space than existing. In terms of No.17 in particular the proposed building would extend along the side boundary and wrap around the rear of this neighbour. To the rear the proposal would present a four storey flank elevation with an eaves height of some 12.5m roof pitching away from this property. This part of the building is some 16m from the rear boundary of No.17 and approximately 31m from the main rear elevation of this neighbour. To the side the other four storey element of the proposal would be sited some 11.2m from the side boundary of this neighbour. Neither element would breach the 45 degree line from a rear facing window within a distance of 15m. In addition the site is located to the north of White Lion Gate. Therefore, given the above, whilst the proposal would result in a significant built form visible from No.17 and its rear amenity space it is considered that given the retained separation distances, orientation and the existing situation on site that this would not result in a significant loss of light or overbearing impact upon No.17 and the adjacent properties on this side of White Lion Gate.

37. Turning to the impact upon the privacy of this neighbour the back to back separation distance of 31m is well in excess of the minimum recommended distance of 22m. In terms of the element of the scheme to the side of No.17 the separation distance of 11m to the side boundary is similar to what you would expect for an average length rear garden. However clearly the four storey nature of this element of the scheme will create greater views towards the rear amenity space of the neighbours on this side of White Lion Gate. However it is noted that the balconies have been sited away from the areas nearest these neighbours. In addition the two most eastern windows at first (Flat 21), second (Flat 37) and third floor level (Flat 49) serve dual aspect rooms and therefore could be conditioned to be obscure glazed and fixed shut to restrict views to the south east. In conjunction with the overlooking that exists from the existing building it is considered that this relationship would not result in a significant loss of privacy to No.17 and the adjacent properties.

38. In relation to No.16 the nearest part of the proposal would be approximately 14.9m from the side of this dwelling. It would not breach the 45 degree line to the nearest front facing window within a distance of 15m. It is considered that given the retained separation distance and the orientation of the proposal in relation to this neighbour that it would not result in a significant loss of privacy or overbearing impact. In terms of privacy the views from the proposal would be towards the front of No.16. Given the angle of these views it is considered that this would not result in a significant loss of privacy to this neighbour.

39. In terms of the flats above the commercial premises on Portsmouth Road the furthest west element of the proposal would be some 21.5m from the rear of this building. This element of the proposal is three storey and at such a distance it is considered that it would not result in a significant loss of light or overbearing impact upon these flats. In terms of privacy the proposal would be marginally within the recommended minimum of 22m distance to retain privacy. However only the nearest set of windows in the north west elevation of the building would be within this distance. In addition the views between the windows would be slightly angled as the buildings are slightly offset. Therefore it is considered that the proposal would not result in a significant loss of privacy to these flats.

40. With regards to the development at No.46 Portsmouth Road the proposal is sited approximately 23m away from the side boundary with this site. Given the separation distance between the proposal and the buildings on this site it is considered that there would not be a
significant loss of light, overbearing impact or loss of privacy on the future occupiers of this site.

41. Turning to disturbance from the site from aspects such as noise, light and vehicular movements it is noted that the existing site already has a large area of car parking and extensive glazing within the existing building. Whilst it is accepted the use of the building will change as a result of the development the number of vehicular movements is anticipated to decrease. In addition the proposed residential use is unlikely to result in disturbance at unsociable hours. Therefore it is considered that the proposal would not result in a significant level of disturbance to neighbouring dwellings.

The provision of a suitable residential environment

42. The proposal would provide 53 flats, which would comply with the relevant nationally described space standards. There is acceptable outlook and ventilation to habitable rooms. The separation distance between habitable room windows is considered sufficient to afford a suitable level of privacy to future occupants. Whilst the flats would not all benefit from private amenity space there are no minimum standards for units of this type. There would be high quality shared amenity space in the form of a walled garden in between the buildings. In addition the site is within relatively close proximity to public amenity space and local services. Whilst the comments of the Heritage, Landscape and Tree Manager are noted it is accepted that there are no minimum standards for individual flats. Therefore on balance, given the mix of private and shared amenity space along with the access to public amenity space it is considered that the proposal would provide suitable amenity for future occupiers.

43. The proximity of some of the parking areas to the wall of the buildings has the potential to impact upon the amenity of the ground floor units with windows facing these areas. Consideration may need to be given to siting habitable room windows away from those elevations which face onto parking areas.

44. The proposal would utilise the existing bin collection point on site and there would be bin storage within the main building. The Council’s Environmental Services have confirmed that the level of bin storage and the collection arrangements would be acceptable. There would also be adequate space within the site for the collection vehicle to manoeuvre and turn within the site.

The impact on highways and parking

45. The site is located off a designated ‘A’ road, however it would utilise an existing access. The existing site benefits from a substantial area of car parking and the existing use generates a significant number of vehicular movements. The proposed use would retain a large area of car parking, however the number of vehicular movements are anticipated to reduce. As such it is considered that the proposal would significantly impact upon highway safety and capacity. Surrey County Council were consulted on the highway implications and confirmed that they has no objections to the proposal in terms of highway safety and capacity.

46. The proposal includes 56 parking spaces which allows for one parking space per unit plus additional spaces for staff. The parking arrangement would allow adequate space for vehicles to manoeuvre and turn within the site. Whilst the site is relatively close to public transport links and local services, given the end users of the site and its siting a reasonable walk from these services it is considered a minimum of one space per unit would be appropriate. Given that the proposal would comply with the Council’s minimum standards it is considered to be acceptable in terms of parking provision. The consultation response from Surrey County suggests that a minimum of 6 spaces should be disabled spaces. This could be secured through a condition requiring further parking details.

47. In terms of cycle storage the proposed store is relatively limited and located close to the refuse store. Surrey County Council advised that they would expect 106 cycle storage spaces as part of the proposed development. However the applicant has provided information in the transport statement to demonstrate that the demand for bicycle storage is likely to be
significantly below this. There would appear to be sufficient space within the site to provide
cycle space for the future occupants of the site. If permission were to be granted a condition
could be imposed requiring the submission of further details of the proposed cycle store.

48. It is noted that Surrey County Council have requested contributions towards public transport
improvements as part of the scheme. It is not considered that these relate directly to the
development itself and therefore it would not be reasonable to require such a contribution in
this instance. In addition such infrastructure contributions would already be provided through
CIL.

49. Surrey County Council have also requested that the pedestrian route linkage through the site
from the pedestrian route terminating at the north-eastern boundary of the adjacent Bowling
Green to Portsmouth Road be protected. This route does not exist at this time as it is fenced
off and it would appear impractical to create such a route through the site. Such a route would
conflict with the residential amenity of future occupiers of the site. Therefore it is not
considered reasonable to require this as part of this application.

The impact on trees

50. The Council’s Tree Officer was consulted on the application and considered that it was
acceptable from an arboricultural point of view. However he did raise concerns with regards
to the removal of trees T40 and T41 and the lack of sufficient landscaping details. Additional
information was received which included the retention of T40 and T41 although the
landscaping detail was still limited as highlighted by the Heritage, Landscape and Tree
Manger. Whilst it is acknowledged that the space for landscaping is slightly limited it is
considered that there is adequate scope for landscaping to partially screen the development
and provide suitable amenity for future occupiers. On the basis of a condition to this affect the
proposal is considered to be acceptable in terms of trees and landscaping.

Flood Risk

51. A small part of the site is located on the edge of Flood Zone 2 and parts of the site are within
areas of medium to low risk of surface water flooding. The applicant has submitted a flood
risk assessment and drainage strategy with the application. The proposed finished floor levels
will be set at a minimum of 150mm above the surrounding ground level in order to minimise
the risk of water ingress. The proposed drainage strategy is considered to be acceptable and
Surrey County Council as the lead local flood authority have raised no objection subject to the
imposition of conditions requiring this to be implemented and maintained for the lifetime of the
development. On this basis it is considered that the proposal would not result in an
unacceptable flood risk to future occupiers or the surrounding area.

Developer contributions

52. 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.

53. 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 2016/17 is £2.96m.

54. 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.
55. Policy CS21: Affordable Housing of the Council’s Core Strategy (2011) requires that development resulting in the net gain of 15 or more residential units should provide 40% of the gross number of dwellings on site as on site affordable housing.

56. 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 Ministerial Statement 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.

57. A recent appeal decision (APP/K3605/W/16/3146699) in Elmbridge found in favour of the Council’s approach. The Inspector considered the approach in Policy CS21 to be 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.

58. 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, 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.”

59. 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.

60. Policy CS21 allows for consideration of financial viability in the event that the required affordable housing contribution would render a scheme financially unviable. In this case the applicant submitted a viability appraisal with the application which demonstrated that the scheme could not support any on site provision or a financial contribution towards affordable
housing. An independent review of this viability appraisal was carried out which confirmed that the scheme could not support any contribution towards affordable housing. Therefore it is considered that the applicant has adequately demonstrated that the proposal could not support the required affordable housing provision required by CS21 and in this instance no contribution could be supported by the scheme.

61. The site is located within the Thame Basin Heaths 5km buffer zone. In order to mitigate against the impact upon this area it is necessary for the applicant to make a financial contribution towards SAMM. A completed UU has been provided in relation to this contribution and therefore the proposal is considered to adequately mitigate against this impact.

Matters raised in Representations

62. The material planning issues have been fully assessed in the planning considerations above.

63. Concern was raised regarding the cumulative impact of multiple developments particularly in terms of disturbance, highway implications and impact upon services. The disturbance from the development could be mitigated by a method of construction statement. Whilst the concerns of residents are noted this is of limited weight in the determination of the application. In terms of the highway implications the proposal is likely to result in a reduction of vehicle movements compared to the existing. In terms of infrastructure the applicant would be required to pay the appropriate CIL contribution towards local infrastructure.

64. Concern was raised regarding the impact upon listed building The White Lion. The proposal is a significant distance from this building with a number of other buildings separating the two. As such there are no concerns with regards to the setting of the listed building.

65. There was concern regarding the impact on air pollution, primarily in relation to an increase in traffic and congestion. As has already been stated the proposal is likely to reduce vehicular movements and therefore it is not considered that there would be a significant impact upon pollution.

66. The proximity of the site to the playground was noted and comments made about the loss of privacy to this area. The playground is already overlooked and is in a public space. Therefore the proposal is not considered to adversely impact upon the playground.

67. There were comments regarding the original scheme being much smaller. This would appear to relate to the prior approval scheme which the applicant submitted prior to this application. The current proposal must be assessed on its own merits.

68. Residents raised concern regarding the lack of public consultation prior to the submission of the planning application. The applicant did carry out consultation prior to the submission of the application as set out in their statement of community involvement. Whilst this may not have involved all residents it did demonstrate that they tried to gather views on the application prior to submission.

69. Comments regarding the difficulty in interpreting plans and lack of dimensions are noted. However the plans are considered to be sufficient to assess the proposal and are do not prejudice any party.

70. There were comments regarding the applicant’s criticisms of Council policy. The application must be considered on the basis of the information submitted including the status of relevant policies.

71. Applicant reliance on emerging local plan. This is a material consideration but is of limited weight at this time due to the early stage of this process.
Brownfield sites should be used as efficiently as possible in order to reduce pressure on Green Belt land. These comments are noted and consideration has been given to the efficient use of land in the urban area.

**Conclusion**

The proposal would result in the loss of strategic employment land which would reduce employment provision in this location. The applicant has failed to demonstrate that the proposal would not result in an overall loss of employment provision or that there is a surplus of Strategic Employment Land. The proposal is therefore contrary to Policy CS23 of the Core Strategy 2011, DM11 of the Development Management Plan 2011 and the National Planning Policy Framework 2012.

**Recommendation: Refuse Planning Permission**

**Reasons For Refusal**

1. The proposal would result in the loss of strategic employment land which would reduce employment provision in this location. The applicant has failed to demonstrate that the proposal would not result in an overall loss of employment provision or that there is a surplus of Strategic Employment Land. The proposal is therefore contrary to Policy CS23 of the Core Strategy 2011, DM11 of the Development Management Plan 2011 and the National Planning Policy Framework 2012.

**Informatives**

1. COMMUNITY INFRASTRUCTURE LEVY (REFUSAL)

   Notwithstanding the above reason(s) for refusal the applicant is advised that the Local Planning Authority has adopted the Community Infrastructure Levy (CIL) on any planning application determined after 01 April 2013. This is a non-negotiable land charge based on per sqm of development (internal gross floorspace). In the event of an appeal situation this planning application will likely be liable for CIL, further details of which can be found on the Council’s website via the following link: http://www.elmbridge.gov.uk/planning/apps/cil.htm
1. Do not scale. Use figured dimensions only. When a scale bar is provided it is for use by the local planning authority solely for the purposes of the planning application to which it relates.

2. Report all drawing errors, omissions and discrepancies to the Architect.

3. The dimensions shall be the contractor's responsibility.

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**Material Key**

1. Brick type 01.
2. Brick type 02.
3. Window with metal panel.
5. Metal projecting balcony.
7. Full height glazing with doors.

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**Anyards Recreation Ground - White Lion Place**

01 North Elevation

02 South Elevation

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**BOILER FLUE**

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Material Key

1. Brick type 01.
2. Brick type 02.
3. Window with metal panel.
5. Metal projecting balcony.
7. Full height glazing with doors.
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Material Key:
1. Brick type 01.
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3. Window with metal panel.
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Mundays LLP

PROPOSED EAST ELEVATIONS

PLANNING APPLICATION
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