



## 12 NOVEMBER 2019 PLANNING COMMITTEE

The current proposals are not materially different, and are in fact identical, in their physical form to those considered under PLAN/2018/1161.

The Planning Inspectorate's decision of 05.08.2019 is a material planning consideration which must be given significant weight.

### **PLANNING STATUS**

- Urban Area
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)
- Hook Heath Neighbourhood Area
- Tree Preservation Order – Area
- Land Contamination
- Surface Water Flooding – 20m buffer

### **RECOMMENDATION**

**GRANT** planning permission subject to planning conditions and the signing of a Section 106 Legal Agreement to secure a Thames Basin Heaths SAMM contribution.

### **SITE DESCRIPTION**

The application site is situated on a corner plot location on the south side of Evelyn Close and is comprised of garden land within the curtilage of existing No. 19 Evelyn Close. To the rear of the site is Egley Road.

The application site is not situated in a Conservation Area and does not concern a Listed Building. The site falls within a Tree Preservation Order (TPO) area and is located within 20m of areas identified as being at medium (1 in 1000 year), high (1 in 100 year), and very high (1 in 30) risk of surface water flooding. The wider area, including the application site, are suspected of having land contamination due to historic uses in the area such as Farms and Nurseries.

### **PLANNING HISTORY**

- APP/A3655/W/19/3227982 – Appeal of PLAN/2018/1161 – Dismissed 05.08.2019 for the following reason/conclusion:

*“Whilst I find that the development would have an acceptable impact on the character and appearance of the area, I also conclude that, as proposed, it has the potential to affect the integrity of the European nature conservation designations. This is a significant issue and must be overriding.”*

- PLAN/2018/1161 - Retention of the existing house within a reduced curtilage and erection of 3x bedroom detached house and new dropped kerb (Amended plans). – Refused 21.03.2019 for the following reason:

1. *The proposed development involves an inappropriate plot subdivision of existing curtilages to a size substantially below that prevailing in the area and results in cramped overdevelopment of the site. The proposal is therefore contrary to Policy DM10 of the Development Management Policies Development Plan Document (2016) and Policies CS21 and CS24 of the Woking Core Strategy (2012).*

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- WOK/25478 – Demolition of the existing buildings and the erection of 21 detached houses – Permit - 19.01.1970
- WOK/25011 - Demolition of the existing buildings and the erection of 21 detached houses – Permit -18.09.1969
- WOK/24562 - Demolition of the existing buildings and the erection of 21 detached houses – Permit 0 09.05.1969

### **CONSULTATIONS**

**County Highway Authority:** No objection subject to planning conditions

**Arboricultural Officer:** No objection subject to planning conditions

**Land Contamination Officer:** No objection subject to planning conditions

### **REPRESENTATIONS**

At the time of writing this report no written representations have been received in response to the neighbour notification of 8 October 2019.

### **RELEVANT PLANNING POLICIES**

#### National Planning Policy Framework (NPPF) (2019):

Section 2 - Achieving sustainable development

Section 9 – Promoting sustainable transport

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

#### South East Plan (2009) (Saved Policy) NRM6 – Thames Basin Heaths Special Protection Area

#### Woking Core Strategy (2012):

CS1 - A Spatial strategy for Woking Borough

CS8 - Thames Basin Heaths Special Protection Areas

CS9 - Flooding and water management

CS10 - Housing provision and distribution

CS11 - Housing Mix

CS12 – Affordable housing

CS18 - Transport and accessibility

CS21 - Design

CS22 - Sustainable construction

CS24 - Woking's landscape and townscape

CS25 - Presumption in favour of sustainable development

#### Development Management Policies Development Plan Document (DMP DPD) (2016)

DM2 - Trees and landscaping

DM8 – Land Contamination and Hazards

DM10 – Development on Garden Land

#### Supplementary Planning Documents (SPDs):

Woking Design (2015)

Outlook, Amenity, Privacy and Daylight (2008)

Parking Standards (2018)

Climate Change (2013)

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### Other Material Considerations:

Planning Practice Guidance (PPG)

Woking Borough Council Strategic Flood Risk Assessment (November 2015)

Community Infrastructure Levy (CIL) Charging Schedule (2015)

### **PLANNING ISSUES**

1. The main issues to consider in determining this application are: the Inspector's appeal decision in respect of PLAN/2018/1161, the principle of development, design considerations and the impact of the proposal on the character and appearance of the surrounding area, standard of accommodation, impact on residential amenity, highways and parking implications, impact on landscaping, sustainability, affordable housing, local finance considerations, the impact on the Thames Basin Heaths Special Protection Area, impact on trees and biodiversity and any other matters having regard to the relevant policies of the Development Plan.

### Background

2. The revised National Planning Policy Framework (NPPF) was published on 24 July 2018 and is a material consideration in the determination of this application. The NPPF (2019) was published in February 2019 and provides minor clarifications to the revised version published in July 2018. However, the starting point for decision making remains the Development Plan, and the revised NPPF (2019) is clear at Paragraph 213 that existing Development Plan policies should not be considered out-of-date simply because they were adopted or made prior to February 2019. The degree to which relevant Development Plan policies are consistent with the revised NPPF (2019) has been considered in this instance, and it is concluded that they should be afforded significant weight, with the exception of Policy CS12, the reasons for which are set out within the affordable housing section.
3. In dismissing planning appeal ref: APP/A3655/W/19/3227982, which appealed the refusal of planning application ref: PLAN/2018/1161, the Inspector came to the following conclusion:

*"Whilst I find that the development would have an acceptable impact on the character and appearance of the area, I also conclude that, as proposed, it has the potential to affect the integrity of the European nature conservation designations. This is a significant issue and must be overriding."*

4. The Inspector came to a different conclusion to the Local Planning Authority (LPA) and considered that the proposed development would be acceptable in terms of its character, design, plot subdivision and relationship with the prevailing character of the area. This recent appeal decision is a material planning consideration which must be given significant weight.

### Principle of Development

5. The NPPF (2019) and Policy CS25 of the Woking Core Strategy (2012) promote a presumption in favour of sustainable development. Policy CS10 of the Woking Core Strategy (2012) identifies that the Council will make provision for an additional 4,964 net additional dwellings in the Borough between 2010 and 2027. The reasoned justification text to Policy CS10 states that new residential development within the Urban Area will be provided through redevelopment, change of use, conversion and refurbishment of existing properties or through infilling.

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6. The proposed development would result in the subdivision of the existing residential curtilage of No. 19 Evelyn Close and the erection of a 3x bedroom dwelling. The site is situated within the Urban Area and is not located within Fluvial Flood Zones 2 or 3 or within Zone A of the Thames Basin Heaths Special Protection Area (TBH SPA) exclusion zone.
7. The existing density of 18.8 dwellings per hectare (dph) would increase to 37.7dph. Policy CS10 of the Woking Core Strategy (2012) sets an indicative density of 30-40 dph for infill development in the rest of the urban area unless there are significant constraints on the site or where higher densities cannot be integrated into the existing form. It is considered that a higher density would not be appropriate on site given the existing urban form.
8. In refusing planning application ref: PLAN/2018/1161 it was concluded by the LPA that the proposed development would involve an inappropriate plot subdivision of existing curtilages to a size substantially below that prevailing in the area which results in a cramped overdevelopment of the site.
9. While the proposal would reduce the size of the amenity space of No. 19, it is considered that the plot subdivision would not result in a density or form of development which is at odds with the character of the area. The proposed dwelling would have a rear garden area of approximately 80sqm while No. 19 would have a rear garden amenity area of approximately 109sqm. The resultant garden sizes would be marginally smaller than the rear gardens of other properties in Evelyn Close, however, it is considered that the subdivision and resulting curtilages would not be substantially below that prevailing in the area.
10. In their assessment of the Appeal, the Inspector concluded that *"Whilst the plot would be narrower than neighbouring properties this would not be significantly so and would not appear cramped or contrived... there would still be some openness and it would not have a cramming effect"*. In light of the recent decision by the Planning Inspectorate and for the reasons set out above, it is considered that the principle of plot subdivision is acceptable subject to the further material considerations set out in this report.

### Design and Impact on the Character of the Area

11. The NPPF (2019) sets out that one of the fundamental functions of the planning and development process is to achieve the creation of high quality buildings and places and that good design is a key aspect of sustainable development. Policy CS21 of the Woking Core Strategy (2012) states that development should respect and make a positive contribution to the street scene and the character of the area paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land. Policy CS24 of the Woking Core Strategy 2012 states that *'development will be expected to...respect the setting of, and relationship between, settlements and individual buildings within the landscape'* and to *'conserve, and where possible, enhance townscape character'*.
12. The application site is situated on a corner plot location on the south side of Evelyn Close and is comprised of garden land within the curtilage of existing No. 19 Evelyn Close. To the rear of the site is Egley Road. The character of Evelyn Close is largely intact with development along the Close consisting primarily of 3 dwelling typologies characteristic of the 1970s. The application site is at the eastern end of a row of 5x two-storey detached dwellings which are relatively uniform in character with cladding at the first floor level and double height brick gable features on the front elevation.

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13. The proposed dwelling would have a gable ended, dual-pitched roof of a maximum height of 7m and an eaves height of approximately 5m, both of which would be broadly consistent with neighbouring No. 19. The design of the proposed dwelling takes cues from neighbouring properties with a double height gable on the front elevation and an area of render on the first floor front elevation, although the overall width of the dwelling would be less than neighbouring properties on the south side of Evelyn Close. It has been indicated that walls would be facing brickwork, the roof would be concrete roof tiles while fenestration would be white uPVC. It is considered that the proposed materials would be acceptable in principle, however, samples of the proposed materials would be secured by way of a planning condition to ensure that the dwelling relates well to neighbouring properties (see Condition 3).
14. In terms of the subdivision of the plot and the development of garden land, the proposed dwelling would be set away from the side elevation of No. 19 by approximately 1.8m which would not be a dissimilar relationship between other neighbouring properties on the south side of the Close. The dwelling would not project forward of the first floor building line of No. 19 and would present a frontage in keeping with the existing street scene in terms of frontage composition, building orientation, visual separation between buildings and distance from the road. In their consideration of the appeal, the Inspector found that while the plot would be narrower than neighbouring properties this would not be significantly so and that the development would not appear cramped or contrived.
15. It is acknowledged that the proposed dwelling lacks a garage and that the majority of dwellings in Evelyn Close have integral garages and wider plots. However, as has been set out above and as found by the Planning Inspector, it is considered that the proposed development would be acceptable in character and design terms with similar visual separation between properties along the south side of Evelyn Close and design features which reflect the subtle variance of properties within Evelyn Close. While the plot width would be less than the majority of plot widths along Evelyn Close, it is considered that it would not appear cramped or contrived.
16. The proposed side elevation would not have any fenestration or decorative treatment, a point which was made during the determination of the previously refused planning application. However, it is considered that this does reflect the blank side elevations that are a design feature of the dwellings on corner plots in Evelyn Close, an observation which was echoed by the Planning Inspector in their determination of the Appeal.
17. Overall, taking into account the Inspector's conclusions at Appeal, it is considered that the proposed dwelling would not result in any significant harm to the character or appearance of the area and that the subdivision of the plot would be appropriate within this unique site context in Evelyn Close. The design of the proposed dwelling would take cues from the designs of neighbouring properties and, subject to planning conditions requiring material samples and a landscaping scheme, it is considered that the proposed dwelling would have an acceptable impact in the street scene.
18. The proposal currently under consideration has not been changed since the refusal of planning application ref: PLAN/2018/1161. It is noted that the previous application was the subject of a planning appeal (ref: APP/A3655/W/19/3227982) where the Inspector found that the proposed development would be acceptable in character, design and plot subdivision terms and that it would accord with development plan policies. The relatively recent decision of the Planning Inspectorate on 05.08.2019 is a material planning consideration which must be given significant weight. Accordingly, it is considered that the proposal would accord with Policy DM10 (Development on Garden Land) of the Development Management Policies DPD (2016) and Policy CS21 (Design) of the Woking Core Strategy (2012).

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### Standard of Accommodation

19. The proposed dwelling is two-storeys in height and would have 3x bedrooms and a Gross Internal Area (GIA) of approximately 109sqm and a footprint of approximately 65sqm. The proposed rear garden would be approximately 80sqm.
20. The proposal would exceed the minimum 93sqm floorspace for a dwelling of this type (as set out in the Technical Housing Standards – National Described Space Standard 2015 [as amended]) and the proposed private garden amenity space would accord with the 'Outlook, Amenity, Privacy and Daylight' 2008 which sets out that an amenity area in scale with the building but always greater than the building footprint should be provided.
21. Habitable rooms would have acceptable levels of outlook with the kitchen and dining room benefitting from a southerly aspect. The separation distances between the proposal and neighbouring properties would ensure acceptable levels of privacy for the owner/occupiers of the proposed dwelling. It is therefore considered that the proposed dwelling would provide a good standard of accommodation for future owner/occupiers.
22. In terms of the existing No. 19, a private amenity area of approximately 109sqm would be retained which would be greater than the building's footprint. It is therefore considered that there would be sufficient amenity space retained for the owner/occupiers of No. 19.

### Impact on Residential Amenity

23. Policy CS21 of the Woking Core Strategy 2012 advises that proposals for new development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook. The main dwellings to consider in assessing the impact of the proposal on neighbouring residential amenity are: Nos. 13, 17, 18 and 19 Evelyn Close and those properties on the south side of Egley Road to the rear of the application site.
24. In terms of No. 19 Evelyn Close, the proposed dwelling would project approximately 0.8m beyond the rear elevation of No. 19 and would have 1x non-habitable room stairway/landing window on the side elevation. Due to the minimal projection beyond the rear elevation of No. 19 it is considered that there would be no significant loss of daylight/sunlight or loss of outlook or overbearing impact to the owner/occupiers of No. 19. Subject to the stairway/landing window being obscure glazed and non-opening below 1.7m above internal floor level, it is considered that there would be no significant loss of privacy (see Condition 12).
25. Regarding No. 13 on the opposite side of Evelyn Close to the proposed dwelling, it is noted that there is a single door on the side elevation of No. 13 facing the application site. While there would be some loss of privacy to the rear garden of No. 13, the proposed dwelling would not look directly into any habitable room windows at the property. In any case, the relationship between No. 13 and the proposed dwelling would be similar to the existing relationship between Nos. 19 and 13. Accordingly, it is considered that the proposed dwelling would not have any significant adverse impact on the amenities of the owner/occupiers of No. 13.
26. With reference to Nos. 17 and 18 Evelyn Close to the east and north-east of the proposed dwelling, the side elevation of the proposed dwelling would be separated from the front elevations of these dwellings by approximately 22m. The dwelling would present a gabled elevation to these dwellings with a maximum height of approximately

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7m. The proposed dwelling would not have any windows on the side elevation (see Condition 10).

27. The proposal would pass the BRE 25 degree rule in relation to the amount of daylight received by habitable room windows at Nos. 17 and 18. The proposed dwelling would not have any adverse impact in terms of loss of privacy to these properties. While there would be some loss of outlook to these properties by virtue of a new dwelling being built on garden land to the front of these properties, overall, the proposed dwelling would be of a similar composition to the existing dwelling when viewed from the east. Furthermore, boundary treatments would remain unchanged with a 1.8m high close boarded fence along the site boundary. It is therefore considered that there would be no significant adverse impact on the amenities of the owner/occupiers of Nos. 17 and 18.
28. Regarding those properties to the rear of the site along the south side of Egley Road, the proposed dwelling would be set away from these dwellings by approximately 45m which would far exceed the minimum separation distances recommended in the Outlook, Amenity, Privacy and Daylight SPD (2008) of 20m between two-storey developments.
29. The proposal is for a single family dwelling in the urban area characterised by detached family dwellings. Within this context it is considered that the proposal would not result in a significant or undue increase in noise when compared to the existing situation. Furthermore it is noted that the Inspector did not object to the relationship with nearby properties in considering the recent Appeal for a similar proposal.
30. Overall, it is considered that the proposed dwelling is acceptable in terms of its relationship with neighbouring properties and would safeguard the outlook, amenity, privacy and daylight of existing and future occupiers of existing dwellings, in accordance with Policy CS21 of the Woking Core Strategy 2012, Supplementary Planning Document 'Outlook, Amenity, Privacy and Daylight' 2008 and the National Planning Policy Framework (2019).

### Arboricultural Impact

31. The application site falls within an area Tree Preservation Order (TPO) and would require the removal of some small trees to the side of the existing dwelling. The Council's Arboricultural Officer has assessed the application and raises no objection to the proposed development as the implications for trees are minor with the removal of small, low public amenity value trees. It is further considered that the row of conifers to the rear of the site are not a constraint. Accordingly, it is considered that the proposed development would have an acceptable impact on trees subject to a planning condition securing details of a landscaping scheme to ensure appropriate landscaping/planting is incorporated into the scheme (see Condition 4).

### Impact on the Thames Basin Heaths Special Protection Area

32. The Thames Basin Heaths Special Protection Area (TBH SPA) has been identified as an internationally important site of nature conservation and has been given the highest degree of protection. Policy CS8 of the Woking Core Strategy (2012) states that any proposal with potential significant impacts (alone or in combination with other relevant developments) on the TBH SPA will be subject to Habitats Regulations Assessment to determine the need for Appropriate Assessment.
33. Following recent European Court of Justice rulings, a full and precise analysis of the measures capable of avoiding or reducing any significant effects on European sites must be carried out at an 'Appropriate Assessment' stage rather than taken into consideration

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at screening stage, for the purposes the Habitats Directive (as interpreted into English law by the Conservation of Habitats and Species Regulations 2017 (the "Habitat Regulations 2017")). An Appropriate Assessment has therefore been undertaken for the site as it falls within 5 kilometers of the TBH SPA boundary.

34. The proposed development would result in the net increase of 1x3 bedroom dwelling on site which would require a Strategic Access Management and Monitoring (SAMM) of £919. This financial contribution would be secured by a Section 106 Legal Agreement prior to the issuing of any grant of planning permission. This payment would increase after 31 March 2020. The applicant has indicated that they are prepared to enter into such an agreement should planning permission be granted. For the avoidance of doubt, sufficient SANG at Horsell Common has been identified to mitigate the impacts of the development proposal.
35. Subject to securing the provision of the SAMM tariff (through a S106 Legal Agreement) and an appropriate CIL contribution, and in line with the conclusions of the Appropriate Assessment (as supported by Natural England), the Local Planning Authority is able to determine that the development would not affect the integrity of the TBH SPA either alone or in combination with other plans and projects in relation to urbanisation and recreational pressure effects. The development therefore accords with Policy CS8 of Woking Core Strategy (2012), the measures set out in the Thames Basin Heaths SPA Avoidance Strategy, and the requirements of the Habitat Regulations 2017.

### Flooding and Water Management

36. The proposal site is not situated within Fluvial Flood Zones 2 or 3, however, the application site is situated within 20m of areas identified as being at medium (1 in 1000 year), high (1 in 100 year), and very high (1 in 30) risk of surface water flooding. Accordingly, details of a scheme for disposing of surface water by means of a sustainable drainage system will need to be secured by pre-commencement planning condition to ensure that the development achieves a high level of sustainability and to ensure that surface water flood risk is not increased on site or elsewhere. With reference to how sewage would be disposed of, Officers confirm that connections to the existing sewer network would be subject to a separate consent from the utilities provider and any Building Regulations requirements.
37. Subject to the above pre-commencement planning condition (see Condition 13) it is considered that the proposed development would not have any significant adverse impact in terms of flood risk or drainage. The proposal is therefore considered to comply with Policy CS9 of the Woking Core Strategy (2012) and the provisions of the NPPF (2019) in terms of flooding and water management.

### Land Contamination

38. The application site is situated on land suspected of being contaminated. Prior to the construction of Evelyn Close, the land formed part of Jackman's Nursery Estate and the area is identified as potentially being host to volatile organic compounds (VOCs), gases, heavy metals and other contaminants of concern. There is evidence of a 500 gallon petroleum tank having been located on the former Nursery site also. Accordingly, the Council's Land Contamination Officer has recommended a number of pre-commencement planning conditions to ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment (See Conditions 15, 16, 17, 18, 19, 20).

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39. Subject to pre-commencement planning conditions, it is considered that any existing contamination of the land would be addressed and that the site would be suitable for the proposed use and that there is no unacceptable risk of pollution within the site or the surrounding area. The proposed development would therefore accord with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016).

### Highways and Parking Implications

40. The proposed dwelling would create a new dropped kerb to provide vehicular access to the property. The proposed dwelling would have 2x on-site car parking spaces in the front garden area.
41. The Council's Parking Standards SPD (2018) sets out minimum car parking standards for residential development. For a property of this type, a minimum of 2 on-site car parking spaces are required. The proposed area of hardstanding to the front of the dwelling would be of sufficient size to accommodate 2x car parking spaces. The proposal would therefore provide the minimum 2x on-site car parking spaces required by the Parking Standards SPD (2018).
42. On-site car parking provision for the existing dwelling would remain unchanged with space for at least 2 cars to be parked on the hardstanding to the front of the dwelling. No. 19 also has use of an integral garage to the front of the dwelling. While the existing dwelling would not strictly accord with the minimum on-site car parking standards for a 4x bedroom property of this type (3x on-site car parking spaces would be required by the Parking SPD [2018]), this is considered to be acceptable considering that there is no net loss of on-site car parking spaces as a result of the proposed development.
43. Within this context, it is considered that the proposal would have no significant adverse impact on the safety of the public highway and that sufficient on-site car parking would be provided subject to planning conditions securing the construction and permanent retention of the site access and the provision and retention of the areas shown on site for on-site car parking (see Conditions 8 and 9) to ensure the highway safety and convenience of the highway users are not compromised as a result of the development. Furthermore, this element was not found to be objectionable by the Inspector in assessing the aforementioned Appeal. The proposed development would comply with Policy CS18 of the Core Strategy (2012), the Woking Parking Standards SPD (2018) and the National Planning Policy Framework (2019).

### Sustainability

44. Following a Ministerial Written Statement to Parliament on 25<sup>th</sup> March, the Code for Sustainable Homes (aside from the management of legacy cases) has now been withdrawn. For the specific issue of energy performance, Local Planning Authorities will continue to be able to set and apply policies in their Local Plans that require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015.
45. The Council has therefore amended its approach and an alternative condition will now be applied to all new residential development which seeks the equivalent water and energy improvements of the former Code Level 4. It is considered that the proposal would be acceptable in terms of sustainability subject to planning conditions (see Conditions 6 and 7).

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### Affordable Housing

46. Policy CS12 of the Woking Core Strategy 2012 states that all new residential development will be expected to contribute towards the provision of affordable housing and that, on sites providing fewer than five new dwellings, the Council will require a financial contribution equivalent to the cost to the developer of providing 10% of the number of dwellings to be affordable on site.
47. Paragraph 63 of the National Planning Policy Framework (NPPF) (2019) sets out that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The site is not within a designated rural area and does not constitute major development (development where 10 or more homes will be provided or the site has an area of 0.5 hectares or more).
48. Whilst it is considered that weight should still be afforded to Policy CS12 (Affordable housing) of the Woking Core Strategy (2012) it is considered that greater weight should be afforded to the policies within the NPPF 2019. As the proposal represents a development of less than 10 units, and has a maximum combined gross floor space of no more than 1000sqm, no affordable housing financial contribution is therefore sought from the application scheme.

### Local Finance Considerations

49. The Community Infrastructure Levy (CIL) is a mechanism adopted by Woking Borough Council which came into force on 1st April 2015, as a primary means of securing developer contributions towards infrastructure provision in the Borough. In this case, the proposed residential development would incur a cost of £125 per sqm which equates to a contribution of approximately £16,979 (109sqm net additional GIA and indexed for inflation).

### Conclusion

50. The principle of development is considered to be acceptable and the proposal will incorporate a satisfactory design and will preserve the character and appearance of the surrounding area. The proposal would not detrimentally affect the setting of the adjacent dwellings and would have an acceptable impact on neighbouring amenity, highway safety, parking, trees, surface water flood risk, land contamination and the surrounding landscape. The development would incorporate appropriate sustainability measures in order to achieve energy performance requirements equivalent to Level 4 for Code for Sustainable Homes.
51. Planning application ref: PLAN/2018/1161 was refused by the Planning Committee as it was considered that the proposal involved an inappropriate plot subdivision to a size substantially below that prevailing in the area resulting in a cramped overdevelopment of the site. However, in their dismissal of the subsequent Appeal, the Inspector disagreed with the reason for refusal arguing that the development would be acceptable in character and design terms. The Appeal was dismissed due to the absence of a Legal Agreement securing a Thames Basin Heaths SAMM contribution. In light of the recent appeal decision, given the identical nature of the proposals and for the reasons set out above it is considered that the proposed development would be acceptable.
52. The proposal is considered to be an acceptable form of development that complies with Sections 2, 12, 13, 14 and 15 of the National Planning Policy Framework (2019), Policies CS8, CS9, CS10, CS16, CS18, CS21, CS22, CS24 and CS25 of the Woking Core Strategy (2012), Supplementary Planning Documents 'Outlook, Amenity, Privacy and

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Daylight' (2008), 'Design' (2015) and 'Parking Standards' (2018), Policies DM2, DM10, DM12 and DM13 of the Development Management Policies DPD 2016 and Thames Basin Heaths Special Protection Area Avoidance Strategy 2010-2015. It is therefore recommended that planning permission is granted subject to the recommended conditions and the signing of a Section 106 agreement.

### **BACKGROUND PAPERS**

1. Site Visit Photographs – 08.01.2019
2. Final Response from County Highway Authority – 14.10.2019
3. Land Contamination Officer – 11.10.2019
4. Planning permission ref: WOK/25478
5. Planning application ref: WOK/25011
6. Planning permission ref: WOK/24562
7. Appeal decision APP/A3655/W/19/3227982

### **RECOMMENDATION**

It is recommended that planning permission be GRANTED subject to the signing of a Section 106 Legal Agreement to secure SAMM contribution and subject to the following Conditions:

1. The development hereby permitted shall be commenced not later than three years from the date of this permission.

Reason: To accord with the provisions of Section 91 (1) of The Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

18/19/047/1, Rev D, Site Plans, received 20.09.2019  
18/19/047/2, Rev D, House Plans, received 20.09.2019  
18/19/047/3, Rev D, Street Scene, received 20.09.2019  
18/19/047/4, Rev A, Existing House and Site Plan, received 20.09.2019

Reason: For the avoidance of doubt and in the interests of proper planning.

3. ++ Prior to the commencement of the development hereby permitted, details, including samples, of all external materials to be used in the construction of the dwelling and any hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter retained in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and in accordance with Policy CS21 of the Woking Core Strategy 2012.

4. ++ Prior to the first occupation of the dwelling hereby approved, a hard and soft landscaping scheme showing details of hard and soft landscaping to the frontage, details of materials for areas of hardstanding (including any drainage arrangements) and boundary treatments and additional tree planting, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter retained in accordance with the approved details unless otherwise first agreed

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in writing by the Local Planning Authority. All landscaping shall be carried out in accordance with the approved scheme in the first planting season (November-March) following the occupation of the buildings or the completion of the development (in that phase) whichever is the sooner and maintained thereafter. Any retained or newly planted trees, shrubs or hedges which die, become seriously damaged or diseased or are removed or destroyed within a period of 5 years from the date of planting shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve and enhance the character and appearance of the locality in accordance with Policies CS21 and CS24 of the Woking Core Strategy 2012.

5. Notwithstanding the provisions of Article 3 and Schedule 2, Part 1, Classes A and B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any orders amending or re-enacting that Order with or without modification) no extension, enlargement or alteration of the dwelling hereby approved shall be carried out without planning permission being first obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of nearby properties and the character of the area and for this reason would wish to control any future development in accordance with Policy CS21 of the Woking Core Strategy 2012.

6. ++ Prior to the commencement of the development hereby permitted written evidence shall be submitted to, and approved in writing by, the Local Planning Authority demonstrating that the development will:
  - a. Achieve a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in the Building Regulations for England Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of a Design Stage Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
  - b. Achieve a maximum water use of no more than 110 litres per person per day as defined in paragraph 36(2b) of the Building Regulations 2010 (as amended), measured in accordance with the methodology set out in Approved Document G (2015 edition). Such evidence shall be in the form of a Design Stage water efficiency calculator.

Such details shall be permanently maintained unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development achieves a high standard of sustainability and makes efficient use of resources in accordance within Policy CS22 of the Woking Core Strategy (2012) and SPD Climate Change (2013).

7. ++ The development hereby permitted shall not be first occupied until written documentary evidence has been submitted to, and approved in writing by, the Local Planning Authority, proving that the development has:
  - a. Achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in the Building Regulations for England Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and

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- b. Achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of the notice given under Regulation 37 of the Building Regulations.

Such details shall be permanently maintained unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development achieves a high standard of sustainability and makes efficient use of resources in accordance with Policy CS22 of the Woking Core Strategy (2012) and SPD Climate Change (2013).

8. ++ Prior to the first occupation of the development hereby approved, space shall be laid out within the site in accordance with the approved plans for vehicles to be parked. Thereafter the parking areas shall be retained and used solely for parking and turning.

Reason: In order that the development should not prejudice highway safety nor should it inconvenience other highway users in accordance with Policy CS9 of the Woking Core Strategy (2012).

9. ++ Prior to the first occupation of the development hereby approved, the proposed vehicular access to Evelyn Close shall be constructed in accordance with the approved plans and thereafter shall be kept permanently maintained.

Reason: In order that the development should not prejudice highway safety nor should it inconvenience other highway users in accordance with Policy CS9 of the Woking Core Strategy (2012).

10. Notwithstanding the provisions of Article 3 and Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any orders amending or re-enacting that Order with or without modification) no additional windows shall be installed on the elevations of the dwellinghouse hereby approved without planning permission being first obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of nearby properties and the character of the area and for this reason would wish to control any future development in accordance with Policy CS21 of the Woking Core Strategy 2012.

11. Any scrub, hedgerow and tree clearance must be undertaken outside the bird breeding season (1<sup>st</sup> March to 30<sup>th</sup> August inclusive) unless the applicant has first carried out a survey of such vegetation (undertaken by an ecologist) which shows that there are no nesting species within relevant parts of the application site and any such survey results have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent birds being injured or killed during site clearance works and to comply Policy CS7 of the Woking Core Strategy 2012, Circular 06/05 Biodiversity and Geological Conservation and the policies in the NPPF 2019.

12. The first floor side elevation window serving the stairway/landing (as shown on 18/19/047/2, Rev D, House Plans, received 20.09.2019) hereby permitted shall be glazed entirely with obscure glass and be non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the internal floor level of the room

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in which the window is installed. Once installed the window shall be permanently retained in that condition unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the adjoining properties in accordance with Policy CS21 of the Woking Core Strategy 2012.

13. ++ No development shall commence until details of a scheme for disposing of surface water by means of a sustainable drainage system have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full in accordance with the approved details prior to the first occupation of the development.

Reason: To ensure that the development achieves a high standard of sustainability and to comply with Policies CS9 and CS16 of the Woking Core Strategy 2012 and the policies in the NPPF 2019.

14. ++ Prior to the first above-ground works for the development hereby approved, details of active/passive electric vehicle charging points to be provided shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to first occupation of the development and thereafter retained in accordance with the approved details unless the Local Planning Authority subsequently agrees in writing to their replacement with more advanced technology serving the same objective.

Reason: in the interests of achieving a high standard of sustainability and in accordance with the electric vehicle charging infrastructure requirements of policy CS22 of the Woking Core Strategy (2012) and the Climate Change SPD (2013).

15. ++ Prior to the commencement of development a comprehensive, written environmental desktop study report shall be submitted to and approved in writing by the Local Planning Authority (including any additional requirements that it may specify). The report to be submitted shall identify and evaluate possible on and off-site sources, pathways and receptors of contamination and enable the presentation of all plausible pollutant linkages in a preliminary conceptual site model. The study shall include relevant regulatory consultations and shall be prepared in accordance with the Environment Agency's Model Procedures for the Management of Contaminated Land (CLR 11) and British Standard BS 10175.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019). This condition is required to be addressed prior to commencement in order that the ability to discharge its requirement is not prejudiced by the carrying out of building works or other operations on the site.

16. ++ Prior to the commencement of development and any contaminated land site investigations on site and in follow-up to the environmental desktop study report a contaminated land site investigation proposal shall be submitted to and approved in writing by the Local Planning Authority (including any additional requirements that it may specify). This proposal shall provide details of the extent and methodologies of sampling, analyses and proposed assessment criteria required to enable the characterisation of the plausible pollutant linkages identified in the preliminary conceptual model. Following approval, the Local Planning Authority shall be given a minimum of two weeks written

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prior notice of the commencement of site investigation works on site. The site investigation works shall then be undertaken in accordance with the approved details.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019). This condition is required to be addressed prior to commencement in order that the ability to discharge its requirement is not prejudiced by the carrying out of building works or other operations on the site.

17. ++ Prior to the commencement of the development a contaminated land site investigation and risk assessment, undertaken in accordance with the approved site investigation proposal, that determines the extent and nature of contamination on site and reported in accordance with the standards of DEFRA's and the Environment Agency's Model Procedures for the Management of Contaminated Land (CLR 11) and British Standard BS 10175, shall be submitted to and approved in writing by the Local Planning Authority (including any additional requirements that it may specify). If applicable, ground gas risk assessments should be completed in line with CIRIA C665 guidance.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019). This condition is required to be addressed prior to commencement in order that the ability to discharge its requirement is not prejudiced by the carrying out of building works or other operations on the site.

18. ++ Prior to the commencement of the development a detailed remediation method statement shall be submitted to and approved in writing by the Local Planning Authority (including any additional requirements that it may specify). The remediation method statement shall detail the extent and method(s) by which the site is to be remediated, to ensure that unacceptable risks are not posed to identified receptors at the site and shall detail the information to be included in a validation report. The remediation method statement shall also provide information on an suitable discovery strategy to be utilised on site should contamination manifest itself during site works that was not anticipated. The Local Planning Authority shall be given a minimum of two weeks written prior notice of the commencement of the remediation works on site. The development shall then be undertaken in accordance with the approved details.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019). This condition is required to be addressed prior to commencement in order that the ability to discharge its requirement is not prejudiced by the carrying out of building works or other operations on the site.

19. ++ Prior to the first occupation of the development hereby permitted, a remediation validation report for the site shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail evidence of the remediation, the effectiveness

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of the remediation carried out and the results of post remediation works, in accordance with the approved remediation method statement and any addenda thereto, so as to enable future interested parties, including regulators, to have a single record of the remediation undertaken at the site. Should specific ground gas mitigation measures be required to be incorporated into a development the testing and verification of such systems shall have regard to CIRIA C735 guidance document entitled 'Good practice on the testing and verification of protection systems for buildings against hazardous ground gases' and British Standard BS 8285 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019).

20. ++ Contamination not previously identified by the site investigation, but subsequently found to be present at the site shall be reported to the Local Planning Authority as soon as is practicable. If deemed necessary development shall cease on site until an addendum to the remediation method statement, detailing how the unsuspected contamination is to be dealt with, has been submitted to and approved in writing to the Local Planning Authority (including any additional requirements that it may specify). The development shall then be undertaken in accordance with the approved details. Should no further contamination be identified then a brief comment to this effect shall be required to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment in accordance with Policy DM8 (Land Contamination and Hazards) of the Development Management Policies DPD (2016) and the NPPF (2019).

21. Notwithstanding the provisions of Article 3 and Schedule 2, Part 1, Class F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any orders amending or re-enacting that Order with or without modification) no additional areas of hardstanding, other than those shown on the approved plans, shall be carried out without planning permission being first obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further areas of hardstanding could cause detriment to the amenities of nearby properties and the character of the area and for this reason would wish to control any future development in accordance with Policies CS9, CS16 and CS21 of the Woking Core Strategy 2012.

### **Informatives**

- 01 The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the NPPF (2019).
02. The applicants attention is specifically drawn to the planning conditions above marked ++. These condition(s) require the submission of details, information, drawings, etc. to

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the Local Planning Authority PRIOR TO THE RELEVANT TRIGGER POINT. Failure to observe these requirements will result in a contravention of the terms of the planning permission and the Local Planning Authority may serve Breach of Condition Notices (BCNs) to secure compliance. The applicant is advised that sufficient time needs to be allowed when submitting details in response to planning conditions, to allow the Local Planning Authority to consider the details and discharge the condition(s). A period of between five and eight weeks should be allowed for.

03. The applicant is advised that the development hereby permitted is subject to a Community Infrastructure Levy (CIL) liability. The Local Planning Authority will issue a Liability Notice as soon as practical after the granting of this permission.

The applicant is advised that, if he/she is intending to seek relief or exemptions from the levy such as for social/affordable housing, charitable development or self-build developments it is necessary that the relevant claim form is completed and submitted to the Council to claim the relief or exemption. In all cases (except exemptions relating to residential extension exemptions), it is essential that a Commencement Notice be submitted at least one day prior to the starting of the development. The exemption will be lost if a commencement notice is not served on the Council prior to commencement of the development and there is no discretion for the Council to waive payment. For the avoidance of doubt, commencement of the demolition of any existing structure(s) covering any part of the footprint of the proposed structure(s) would be considered as commencement for the purpose of CIL regulations. A blank commencement notice can be downloaded from:

[http://www.planningportal.gov.uk/uploads/1app/forms/form\\_6\\_commencement\\_notice.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_6_commencement_notice.pdf)

Claims for relief must be made on the appropriate forms which are available on the Council's website at:

<https://www.woking.gov.uk/planning/service/contributions>

Other conditions and requirements also apply and failure to comply with these will lead to claims for relief or exemption being rendered void. The Local Planning Authority has no discretion in these instances.

For full information on this please see the guidance and legislation here:

<https://www.gov.uk/guidance/community-infrastructure-levy>

<http://www.legislation.gov.uk/all?title=The%20Community%20Infrastructure%20Levy%20Regulations%20>

Please note this informative provides general advice and is without prejudice to the Local Planning Authority's role as Consenting, Charging and Collecting Authority under the Community Infrastructure Levy Regulations 2010 (as amended).

04. The applicant is advised that Council officers may undertake inspections without prior warning to check compliance with approved plans and to establish that all planning conditions are being complied with in full. Inspections may be undertaken both during and after construction.
05. The applicant is advised that adequate control precautions should be taken in order to control noise emissions from any fixed plant, including generators, on site during demolition / construction activities. This may require the use of quiet plant or ensuring that the plant is sited appropriately and / or adequately attenuated. Exhaust emissions from such plant should be vented to atmosphere such that fumes do not ingress into any property. Due to the proximity of residential accommodation there should be no burning

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of waste material on site. During demolition or construction phases, adequate control precautions should be taken in order to control the spread of dust on the site, so as to prevent a nuisance to residents within the locality. This may involve the use of dust screens and/ or utilising water supply to wet areas of the site to inhibit dust.

06. The provisions of the Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. An explanatory booklet, prepared by the Ministry of Housing, Communities and Local Government, and setting out your obligations, is available at the following address:  
<https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance#explanatory-booklet>
07. The applicant's attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and the associated British Standard Code of Practice BS 5228: 1984 "Noise Control on Construction and Open Sites" (with respect to the statutory provision relating to the control of noise on construction and demolition sites). If work is to be carried out outside normal working hours, (i.e. 8 am to 6 p.m. Monday to Friday, 8 am to 1 p.m. Saturday and not at all on Sundays or Bank Holidays) prior consent should be obtained from the Council's Environmental Health Service prior to commencement of works.
08. The Contaminated Land Officer would like to draw the applicants/agents/consultants attention to the specifics of the contaminated land conditional wording such as 'prior to commencement', 'prior to occupation' and 'provide a minimum of two weeks notice'.

The submission of information not in accordance with the specifics of the planning condition wording can lead to delays in discharging conditions, potentially result in conditions being unable to be discharged or even enforcement action should the required level of evidence/information be unable to be supplied. All relevant information should be formally submitted to the Local Planning Authority and not direct to the Contaminated Land Officer.