

**Epsom Civic Society and Woodcote (Epsom) Residents' Society: response to Statement of Case.**

**Appeal by Senior Living Urban (Epsom) Limited - Ref: APP/P3610/W/21/3272074**

**Site Address: Epsom Ewell & St. Hellier NHS Trust, Epsom General Hospital Dorking Road, EPSOM, KT18 7EG**

**Preliminary**

1. Epsom Civic Society and Woodcote (Epsom) Residents' Society both submitted objections to the local planning authority about this application. Our shared view remains unchanged that the proposal, being much higher than the hospital's Wells Wing, presents an unacceptable physical intrusion in terms of height and mass. The Report to Committee was, in our view, less than robust and was not balanced in its professional analysis and recommendations. To recommend approving this planning scheme with the potential for significant long-term adverse impacts on streetscape and neighbours' amenity and one that fails to meet priority housing need is in both Societies' view not compliant with key local policies, nor with central government objectives in promoting good design and retention of local character and distinctiveness. We support our Borough's transition into a modern market town where character and heritage are valued not only for their history but for their contribution to future quality of life and well-being. We seek to avoid the transformation of Epsom into a generic high-rise town.
2. We have consistently stated that local residents cannot support a scheme which does not safeguard our local character and identity and which does not protect existing residential amenity. To achieve this, we have clearly stated in written representations and in a zoom meeting and separate Webinar organised by the applicant that the maximum height of the development should be no more than 6 storeys in order not to exceed the height of the Wells hospital building. The frontage onto Woodcote Green Road should be set back to allow a much more substantial landscaping buffer to the Millennium Green opposite, should not exceed 3 storeys next to 40 Woodcote Green Road and should be set further away from the south-western boundary to comply with townscape and residential amenity requirements. Epsom Civic Society and Woodcote (Epsom) Residents' Society are extremely disappointed that our views and those of over 600 residents who objected to the scheme have been largely ignored.

**Response to Appeal**

3. We support the Planning Committee's reasons for refusal:

**Reason for refusal 1**

*The proposed development by reason of its height, mass, scale and design would adversely impact and harm the character and appearance of the area (including the built environment and landscape setting), failing to comply with Policy CS5 of the Core Strategy*

*(2007), Policies DM9, DM10 and DM11 of the Development Management Policies Document (2015) and paragraphs 122 and 127 of the NPPF (2019).*

4. The height of the proposed buildings rises to 9 storeys and this would become the predominant height across the application site. 9 storeys is equivalent to a height above ground level of nearly 33 metres, but when allowance is made for the lift shafts on the roofs this would rise to over 35 metres in height. This should be compared to the height of existing buildings across the entire Epsom Hospital estate which are mainly 5 storeys or less (ie up to 20 metres in height). The roof top plant of the Wells wing is the exception and rises to 28.7 metres height and this dominates the existing skyline out of all proportion to the rest of the hospital buildings. The surroundings to the hospital site are predominantly two storey brick and tile traditional suburban housing.
5. It is considered that the height and massing of the proposed buildings is contrary to national and local planning policy guidance. Insofar as national planning policy guidance is concerned Paragraph 127 of the National Planning Policy Framework, Feb 2019 requires that 'planning policies and decisions should ensure that developments:
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting'
6. The National Design Guidance is intended to be used when assessing planning applications. This sets out 10 characteristics that form good design and one of these is 'Local Identity' and that well-designed new development should be influenced by:
  - an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents;and that the following should be considered in response to local character and identity:
  - the height, scale, massing and relationships between buildings;
  - views, vistas and landmarks;
  - the scale and proportions of buildings.
7. The more recent National Model Design Code provides typical parameters for 'urban neighbourhood' areas of 12m eaves heights and 'suburbs' of 9m eaves heights. Not 32m eaves.
8. Local planning policy is set out in Epsom and Ewell Borough Council's Core Strategy, 2007 and Development Management Policies Document, 2015. Policy CS5 requires all developments to 'reinforce local distinctiveness and complement the attractive characteristics of the Borough'. Policy DM9 requires development proposals to be compatible with local character and to relate well to existing townscape and wider landscape whilst Policy DM10 requires the distinctiveness of an area to be respected, maintained or enhanced through such essential elements as scale, layout, height, form and massing.
9. Local planning policy had more recently been supplemented with the Report "Making Efficient Use of Land – Optimising Housing Delivery" agreed by the Council's Licensing and

Planning Policy Committee in May 2018. This was intended to effectively set aside policies DM11 (housing density) and DM13 (Building Heights) in order to attribute greater weight towards the need to deliver new additional homes. We dispute the legal basis for this May 2018 statement / resolution. The appellant's Statement of Case places heavy reliance on this but it is unclear whether a statutory development plan can have its adopted policies DM11 (density) and DM13 (heights) set aside in this manner with no formal public consultation or statutory process.

10. Notwithstanding the legality of the May 2018 resolution, the important caveat to the setting aside of policies DM11 and DM13 was 'whilst responding to the Borough's visual character and appearance' and 'subject to conformity with other relevant policies.' The report further states that potential locations for higher buildings and densities "include town centres, sites in proximity to railway stations and sites located along transport corridors". It is clear that the application site is not located within one of the above potential locations for higher buildings and it is equally clear that development of the height proposed conflicts with the prevailing townscape and pattern of development within and around the site. It would introduce a dominating and overbearing built form which would be harmful to the visual amenities of the surrounding area.
11. Although Epsom and Ewell Borough Council is caught by the so-called tilted balance in paragraph 11(d) of the NPPF, the policies that have been relied upon by the Council in its decision are in an adopted development plan, are subject to the statutory s38(6) requirement and are in line with the policies in the NPPF, especially those relating to good design. They are therefore not out of date and they do not, of themselves, interfere with the presumption in favour of sustainable development for the provision of housing. Rather they ensure that any housing or other development that is delivered is well designed and respects the character of its surroundings.
12. The proposal is considered contrary to paragraph 127c) of the NPPF which requires developments to be sympathetic to the surrounding built environment, as well as policies DM9 and DM10 of the Council's Development Management Policies Document 2015 and policy CS5 of the Council's Core Strategy 2007, which together seek high quality and inclusive design which reinforces local distinctiveness. Planning permission should only be granted for proposals which make a positive contribution to the Borough's appearance in regard to compatibility with local character and the relationship to the existing townscape and prevailing development typology of the surrounding area. The proposed buildings with their architectural detailing, scale and massing and siting within the plot is in stark contrast to the established character and distinctiveness of the local area.
13. The appellant's Statement of Case refers to the height of the scheme being reduced following public consultation and informed by pre-application discussions. There was a significant public backlash to the original proposals which resulted in amendments to the scheme. It is also clear that there is no public support for the appeal scheme as now presented. The appeal scheme, however, must be considered on its merits and not by reference to the degree of change from previous iterations.

14. In summary it is considered that the scheme fails to comply with relevant national and local policies concerned with respecting local character, design and appearance.

Reason for refusal 2

*The siting of the development leaves insufficient landscaping opportunities to the frontage of Woodcote Green Road and along the south-western boundary with neighbouring residential property to mitigate the impact of the proposed development, presenting an over-developed and hard edge to the appearance to the development, which would cause harm to the character and appearance of the area. Causing harm to the character and appearance of the area fails to comply with Policy DM5 of the Development Management Policies Document (2015) and the NPPF (2019).*

15. The 'stepping down' of the West Block to 5 storeys at its southern end next to Woodcote Green Road and 4 storeys at the southern end of the East Block does little to minimise the massing and bulk of the scheme as seen from the Millennium Green and public views along Woodcote Green Road. This is because the West Block would be some 10m nearer the Woodcote Green Road frontage than the existing Woodcote Lodge and would be 5 storeys compared to the existing 2½ storeys of Woodcote Lodge. Similarly, the East Block whilst remaining at 4 storeys would be between 5m and 12m nearer the Woodcote Green Road frontage than the existing Rowan House, minimising the scope for effective boundary landscaping and urbanising the street scene in this sensitive location opposite the Millennium Green which is currently an oasis of calm much valued by the local community, including hospital workers.
16. In a scheme of this magnitude it could reasonably be expected that significant screen landscaping of around 5m width would be provided along this sensitive south-western residential boundary to offset and reduce harm to residential amenity. Minimal planting is proposed which is considered totally unacceptable in terms of separating the impact of the development from surrounding dwellings but also in providing an appropriate level of amenity for the prospective residents of the scheme.
17. In summary this aspect of the application is considered to be contrary to paragraph 127 of the National Planning Policy Framework (NPPF), the National Design Guide (Oct 2019) and to policies CS5 (Conserving and Enhancing the Quality of the Built Environment), DM5 (Trees and Landscape), DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments).

Reason for refusal 3

*The proposed development by reason of its height, massing and design would adversely impact on the neighbouring amenities of the occupiers at 40 and 46 Woodcote Green Road, by means of overbearing, loss of privacy and loss of outlook, failing to comply with Policy DM10 of the Development Management Policies Document (2015)*

18. The residential occupiers at 40 Woodcote Green Road would have a 5 storey block projecting 10m forward of their building line and within 10m of their flank boundary. This would result in loss of outlook at the front and overlooking of the rear lounge and garden from the proposed flank bedroom windows and balconies.

19. The appellant's Statement of Case refers to 4 secondary living room windows and 2 bedroom windows overlooking the front garden and approach to 40 Woodcote Green Road as if that is of minor consequence. Similarly, it states that only a single unit per floor (ie 4 units in total) would overlook the rear of the property and rear garden. This would not be a marginal impact; it would result in a severe loss of amenity to the current occupiers.
20. The appellant's Statement of Case also suggests that by increasing the separation distance between 40 Woodcote Green Road and the proposed West Block by some 5 metres over the existing situation justifies an increase in height from 3 storeys to 5 storeys. This is not credible. Not only would the proposed building be much higher and considerably larger it would have flank windows which the existing building does not have. The building would be visually obtrusive and give rise to overlooking and the perception of being overlooked.
21. These occupiers will also suffer serious noise and disturbance and loss of amenity from the positioning of the main access road adjacent to the flank boundary of the property. This road would accommodate all cars and servicing vehicles visiting the development and between this access road and the neighbouring occupiers would be 16 parking spaces hard up against the flank boundary fence. These spaces are mainly intended as short-term parking for visitors and it is considered that such an arrangement is likely to result in significant harm to the enjoyment of the rear garden and therefore on the living conditions of the occupiers.
22. The residential occupiers at 46 Woodcote Green Road would in particular suffer from loss of outlook and visual intrusion from looking directly across from the rear living rooms to the 9 storey element which would only be about 45m away. This would result in overlooking, a loss of privacy and an increased perception of overlooking.
23. Other residents in Digdens Rise and Hyland Close directly back onto the western block. Whilst their rear living room windows would be some 25m -35m from the 4 storey key worker elevation and some 40m-50m from the 9 storey element, there is considered to be a serious risk of overlooking from the proposed unit windows and balconies together with the loss of residential amenity from loss of outlook and visual intrusion from the overbearing and oppressive impact arising from the scale and massing of the western block. The level of overlooking is likely to be exacerbated by the single aspect nature of many of the proposed units, the sheer number and extent of windows adorning the elevations and the use of full height glazing. Existing residents' expectation of privacy would be seriously compromised by the appeal scheme.
24. In addition to the above the Construction Environmental Management Plan proposes the erection of a 4 storey high site accommodation block that would provide a canteen, toilets, showers, messroom and offices for an extended period whilst building works are undertaken. This is proposed to be erected immediately adjacent to the rear boundary fence of 14-20 Digdens Rise. The Arboricultural Assessment also proposes the felling of 3 boundary trees in this location. It is considered wholly unsuitable for this site construction block to be erected in a position which would be visually obtrusive and result in a serious

loss of residential amenity to the nearby occupiers. This is another example of the total disregard by the appellant for neighbouring residents' amenity, similar to undertaking partial demolition of existing buildings on the site and then leaving a semi-derelict site until the outcome of this appeal is known.

#### Reason for refusal 4

*In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure an affordable housing contribution, the applicant has failed to comply with Policy CS9 (Affordable Housing and meeting Housing Needs) of the Core Strategy (2007) and the NPPF (2019).*

25. We have considerable concerns that this scheme is not contributing the required amount of affordable housing. There is an acute shortage of unconstrained land available to meet identified priority needs in Epsom and Ewell Borough. This includes a minimum of 40% affordable housing. In not providing the required level of affordable housing we contend that the appeal scheme fails to make efficient use of land as required by Policy CS5. By resulting in an over-concentration of a type of housing which does not meet priority housing needs it is also considered that the benefit of the additional housing is overstated. Re-provision of key worker housing should similarly only be given very limited weight as this results in no net gain over the previous position.
26. We also consider that the benefit of regenerating an under-utilised site as claimed in the appellant's Statement of Case is exaggerated as this would apply equally to any development coming forward on the site.
27. The employment and economic benefits are also questionable as in many cases these would result in jobs being displaced from elsewhere. Being more orientated towards a self-contained community for elderly and vulnerable residents it is also likely to generate much lower expenditure in Epsom town centre and other local centres compared to a conventional housing development.

#### **Changing government agenda: good design and building back better**

28. Our Societies support central government in its recognition of the importance of good placemaking, local distinctiveness and quality of design, evidenced most recently by its consultation on the National Model Design Code which sets out helpful parameters regarding density and building heights which are considerably less than presented in this scheme.
29. We have been encouraged by the Secretary of State's written Ministerial Statement to Parliament (16/12/20) that sound planning decisions are not about housing numbers alone.
30. We have noted with interest that the new London Plan for our near neighbours has a much-reduced height default threshold definition for tall buildings, now at 6 storeys or 18 metres reportedly responding to calls for an approach more sensitive to local context. This provides strong persuasive arguments to resist unacceptably tall buildings here, in a low-

rise borough just beyond the limits of outer London, where no tradition of ‘building tall’ exists.

31. Excessive focus on housing numbers at the expense of other material considerations, and an apparent disregard of the height policies in the current Local Plan in favour of an informal policy change of dubious validity by the Licensing and Planning Policy Committee in May 2018 has been unduly relied upon and has led, we suggest, to inappropriate encouragement to developers to build higher and higher.
32. Our respective Societies hear from members and from non-members alike about their desire to resist the proliferation of tall buildings in the Borough and prevent the consequent erosion of local character and distinctiveness. We know that our concerns about unacceptably tall buildings are shared by local residents, their associations and societies, pressure groups and a local Neighbourhood Forum. On their behalf we seek to enable and support our Council’s ability to take forward the 6 key principles<sup>1</sup> into the emerging draft Local Plan.

### Conclusion

33. This application represents a significant watershed for the Borough in terms of identifying acceptable building heights for new development. It is our joint view that the scheme is insensitive to local context and constitutes a brutal intervention that erodes local character and distinctiveness, is contrary to key local policies and to the government’s commitment to good design and building back better.
34. We consider that the appeal proposal would result in a level of harm to the character and appearance of the area and to neighbouring residential amenity that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. We ask for the appeal to be dismissed.

1 June 2021

Following permission from the Planning Inspectorate on 28 May 2021 to extend the deadline for representations to 8 June 2021 due to the late availability to interested parties of the appellant’s Statement of Claim, we reserve the right to submit further representations by the extended deadline. We are grateful to the Inspectorate for allowing us this extra time.

Margaret Hollins  
Chair, Epsom Civic Society



[chair@epsomcivicsociety.org.uk](mailto:chair@epsomcivicsociety.org.uk)  
<https://epsomcivicsociety.org.uk/>

Fred Mowbray  
Chair, Woodcote (Epsom) Residents’ Society



John Mumford  
Committee Member, W(E)Residents’ Society  
Committee Member, Epsom Civic Society



<sup>1</sup> <https://www.epsom-ewell-localplan.co.uk/news-and-updates.html#6principles>