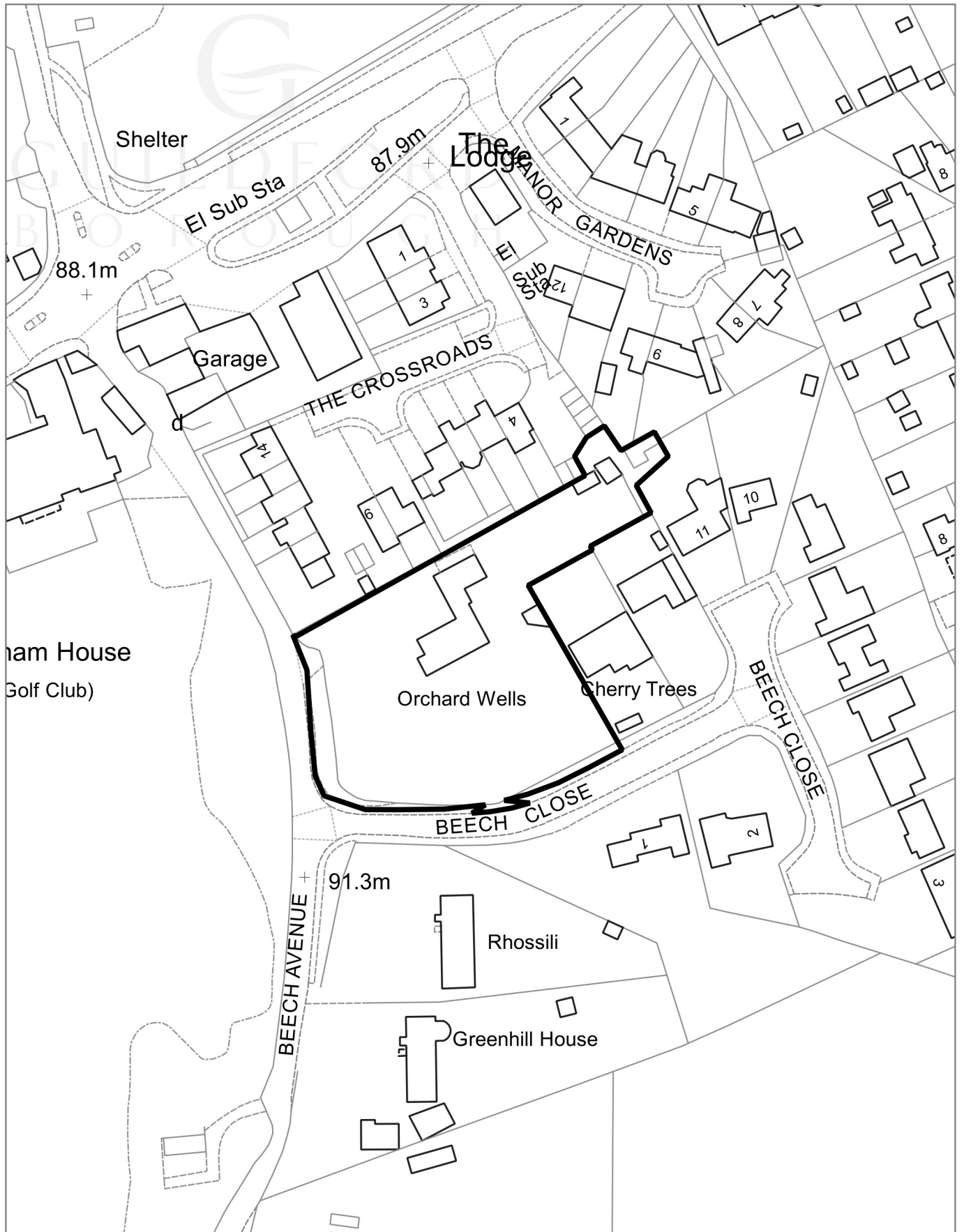


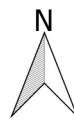
# 21/P/02246 - Orchard Walls, Beech Avenue, Effingham, Leatherhead



© Crown Copyright 2022. Guildford Borough Council.  
Licence No. 100019625.

This map is for identification purposes only and should  
not be relied upon for accuracy.

Print Date: 27/05/2022



Not to Scale



GUILDFORD  
BOROUGH

21/P/02246 – Orchard Walls, Beech Avenue, Effingham, KT24 5PG



Not to scale

**App No:** 21/P/02246

**8 Wk Deadline:** 17/12/2021

**Appn Type:** Full Application

**Case Officer:** James Overall

**Parish:** Effingham

**Ward:** Effingham

**Agent :** Mrs Collins  
Solve Planning Ltd  
Sentinel House  
Ancells Business Park  
Harvest Crescent  
Fleet  
GU51 2UZ

**Applicant:** Mr. Grimshaw  
Claremont Finesse Ltd  
1A Cobham High Street  
Cobham  
GU51 2UZ

**Location:** Orchard Walls, Beech Avenue, Effingham, Leatherhead, KT24 5PG

**Proposal:** Demolition of the existing property and erection of 8 dwellings with a new access provided onto Beech Close.

### **Reason for referral**

This application has been referred to the Planning Committee because more than 20 letters of objection have been received, contrary to the Officer's recommendation.

A previous application on this site has attended historic Planning Committee's on both 31 March 2021 and 6 October 2021.

In March 2021 Planning Committee was deferred by Members to allow time for a review by the Council's independent consultants of the position on the commuted sum for affordable housing which had been provided at late notice by the applicant prior to that meeting.

In October 2021 planning permission was granted following consideration by planning committee.

### **Key Information**

The application site is situated on the corner of Beech Avenue and Beech Close. A mature boundary beech hedge surrounds the site on the road frontages.

The site has been inset from the Green Belt and is adjacent to the Effingham Conservation Area and is within the 5km to 7km buffer zone of the Thames Basin Heath Special Protection Area.

Vehicular access would be via a new access off Beech Close.

Three no.4 bed dwellings, one no.3 bed dwelling, and three no.2 bed dwellings are proposed.

A commuted sum of £178,844 for affordable housing would be secured via a Section 106 Legal Agreement.

### **Summary of Considerations and Constraints**

The site is allocated in the Effingham Neighbourhood Plan (ENP) for residential development, and is identified for up to 6 homes (a net increase of five dwellings)., Therefore the principle of housing development on this site is considered acceptable. The current proposal is therefore to be assessed against relevant policies in the development plan.

The proposed development is considered to be in keeping with the character of this semi-rural surrounding area in terms of design and layout. The proposals would not result in any undue loss of neighbouring amenity in terms of loss of privacy, loss of light or overbearing nature or outlook.

The proposal seeks planning permission for a scheme, which provides three 4-bed dwellings, one 3-bed dwelling and four 2-bed dwellings. As per Policy ENP-H2 this is a compliant housing mix.

The Applicant has submitted information to demonstrate that the previously approved scheme (20/P/00737 is not viable to develop. This information further demonstrates that the current proposal provides a surplus which would be provided as a contribution towards affordable housing. This information has been tested by independent viability consultants appointed by the Council who agree with the conclusions of the submitted information regarding viability.

The applicant has agreed to enter into a legal agreement to secure payment of the commuted sum of £178,844 for affordable housing and the application is subsequently recommended for approval subject to a S.106 agreement and conditions.

**RECOMMENDATION:**

**(i) That a s.106 agreement be entered into to secure:**

- a financial contribution for affordable housing

**If the terms of the s.106 or wording or the planning conditions are significantly amended as part of ongoing s.106 or planning condition(s) negotiations any changes shall be agreed in consultation with the Chairman of the Planning Committee and lead Ward Member.**

**(ii) That upon completion of the above, the application be determined by the Head of Place / Director of Service Delivery. The recommendation is to approve planning permission, subject to conditions.**

**Approve - subject to the following condition(s) and reason(s) :-**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

- AAL-21-217-P02 (Site Comparison & Dimension Plans)
- AAL-21-217-P03 (Plot 1 Plans & Elevations)
- AAL-21-217-P04 (Plot 2 Plans & Elevations)
- AAL-21-217-P05 (Plot 3 Plans & Elevations)
- AAL-21-217-P06 (Plots 4&5 Plans & Elevations)

- AAL-21-217-P07 (Plots 6&7 Plans & Elevations)
- AAL-21-217-P08 (Plot 8 Plans & Elevations)
- AAL-21-217-P09 (Section AA)
- AAL-21-217-P10 (Section BB (Street Scene))
- AAL-21-217-P11 (Section CC)
- AAL-21-217-P12 (Bicycle Sheds for All Units)
- AAL-21-217-P13 (Existing House Floor Plans)
- AAL-21-217-P14 (Existing House Elevations)
- AAL-21-217-P15 (Comparison Sections)

received 22 October 2021.

- AAL-21-217-P01 Rev A (Site Layout, Block Plan & Site Location Plan)  
received 24 May 2022.

- Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.
3. Prior to any development above slab level details and samples of the proposed external facing and roofing materials including colour and finish shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.

- Reason: To ensure that the external appearance of the building is satisfactory.
4. Prior to the commencement of development, an energy statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of how energy efficiency is being addressed, including benchmark data and identifying the Target carbon Emissions Rate TER for the site or the development as per Building Regulation requirements (for types of development where there is no TER in Building Regulations, predicted energy usage for that type of development should be used) and how a minimum of 20 per cent reduction in carbon emissions against the TER or predicted energy usage through the use of on site low and zero carbon technology shall be achieved. The approved details shall be implemented prior to the first occupation of the development and retained as operational thereafter.

- Reason: To reduce carbon emissions and incorporate sustainable energy in accordance with the Council's 'Climate Change, Sustainable Design, Construction and Energy' SPD 2020.
5. The development hereby permitted must comply with regulation 36 paragraph 2(b) of the Building Regulations 2010 (as amended) to achieve a water efficiency of 110 litres per occupant per day (described in part G2 of the Approved Documents 2015). Before occupation, a copy of the wholesome water consumption calculation notice (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) shall be provided to the planning department to demonstrate that this condition has been met.

- Reason: To improve water efficiency in accordance with the Council's Climate Change, Sustainable Design, Construction and Energy SPD 2020.
6. The development hereby approved shall not be first occupied unless and until the proposed vehicular access to Beech Close has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and are in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework 2021; as well as Policy ID3 of the Guildford Local Plan (2019).

7. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plan for vehicles and cycles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and are in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework 2021; as well as Policy ID3 of the Guildford Local Plan (2019).

9. The development hereby approved shall not be first occupied unless and until existing access from the site to Beech Avenue has been permanently closed and any kerbs, verge, footway, fully reinstated.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and are in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework 2021; as well as Policy ID3 of the Guildford Local Plan (2019).

10. The development hereby approved shall not be occupied unless and until the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained for their designated purposes.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and are in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework 2021; as well as Policy ID3 of the Guildford Local

- Plan (2019).
11. No development shall commence until a Construction Transport Management Plan, to include details of:
- (a) parking for vehicles of site personnel, operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials
  - (d) programme of works (including measures for traffic management)
  - (e) management of HGV deliveries and hours of operation
  - (f) measures to prevent the deposit of materials on the highway
  - (g) on-site turning for construction vehicles
  - (h) on-site turning for construction vehicles
  - (i) no HGV movements to or from the site shall take place between the hours of 8.30 and 9.30 am and 3.00 and 4.00 pm nor shall the contractor permit any HGVs associated with the development at the site to be laid up, waiting, in Beech Close and Beech Avenue during these times

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and are in recognition of Section 9 "Promoting Sustainable Transport" in the National Planning Policy Framework 2021; as well as Policy ID3 of the Guildford Local Plan (2019).

12. Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations, shall not take place other than between the hours of 0800 and 1800 Mondays to Fridays and between 0800 am and 13.30 pm Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the neighbours from noise and disturbance outside the permitted hours during the construction period.

13. The development hereby approved shall not be first occupied until a hard and soft landscaping scheme, including details and samples of hard landscaping and details of the number and species type of proposed trees/plants, has been submitted and approved in writing by the Local Planning Authority. The hard and soft landscaping scheme, other than planting, seeding or turfing, shall be implemented in accordance with approved details and samples prior to the first occupation of the development. All planting, seeding or turfing shown on the approved landscaping proposal shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality and also to protect neighbouring amenity.

14. No development shall take place until an Arboricultural Method Statement (detailing all aspects of construction and staging of works) and a Tree Protection Plan in accordance with British Standard 5837:2005 (or any later revised standard) as recommended in the submitted Arboricultural Assessment Report by Harper Tree Consultants dated 24 February 2020 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed method statement and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with the Tree Protection Plan. Within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of above or below ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the local planning authority. The fencing shall be maintained in accordance with the approved details, until all equipment, machinery and surplus materials have been moved from the site.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality.

15. The first-floor windows in the side elevations of the dwellings hereby approved shall be glazed with obscure glass and permanently fixed shut unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.

Reason: In the interests of residential amenity and privacy.

16. Prior to the first occupation of the development details of Ecological Enhancement measures in line with the recommendations of the ethos Environmental Planning Ecological Assessment Report dated July 2020 shall be submitted to and approved in writing by the Local Planning Authority. The agreed enhancement measures shall be implemented prior to the first occupation of the development (unless otherwise stated in the agreed document) and shall thereafter be maintained in accordance with the agreed details.

Reason: In order to protect the nature conservation and biodiversity value of the site.

17. The development hereby approved shall be carried out in accordance with the mitigation measures detailed in the ethos Environmental Planning Ecological Assessment Report dated July 2020.

Reason: To ensure protected species are protected during the construction of the development.

18. The Beech Hedge running along the site boundary adjacent to Beech Avenue and Beech Close as shown on plan no.AAL-21-217-P01 Rev A shall



be retained, and in the event of death within 5 years of the date of decision notice, replanting shall occur.

19. Reason: In the interests of the character and appearance of the Effingham Conservation Area in accordance with Policy HE10 of the Guildford Borough Local Plan 2003 and Policy ENP-G2 of the Effingham Neighbourhood Plan. The existing boundary walls to the site as shown on plan no.AAL-21-217-P01 Rev A shall be permanently retained and maintained.

20. Reason: In the interests of the character and appearance of the Effingham Conservation Area. No development shall commence until a Site Waste Management Plan has been submitted to an approved in writing by the Local Planning Authority that demonstrates how waste generated from construction and excavation activities would be dealt with in accordance with the waste hierarchy. The Site Waste Management Plan will subsequently be kept up-to-date throughout the development process in accordance with the established methodology.

Reason: To ensure that the development takes waste hierarchy into account to manage waste. It is considered necessary for this to be a pre-commencement condition because waste will begin to be generated as soon as any development commences on the site.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Class A, shall be carried out on the dwellinghouses hereby permitted or within their curtilage.

Reason: Having regard to the size of the dwellings approved, the local planning authority wishes to retain control over any future extensions at the property, in order to safeguard the character of the area and the residential amenities of adjoining properties.

**Informatives:**

1. If you need any advice regarding Building Regulations please do not hesitate to contact Guildford Borough Council Building Control on 01483 444545 or [buildingcontrol@guildford.gov.uk](mailto:buildingcontrol@guildford.gov.uk)
2. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
  - Offering a pre application advice service
  - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application

- Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

Pre-application advice was not sought prior to submission and the application as originally submitted was unacceptable but Officers chose to work with the applicant and sought amended plans and a viability report to overcome Officers concerns.

3. The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, or verge to form a vehicle crossover or to install dropped kerbs. Please see [www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-crossovers-or-dropped-kerbs](http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-crossovers-or-dropped-kerbs).
4. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
5. The permission hereby granted shall not be construed as authority to carry out any works on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991.
6. Please see [www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/floodingadvice](http://www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/floodingadvice) The developer is advised that as part of the detailed design of the highway works required by the above condition(s), the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.
7. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to: <http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector

types.

## **Officer's Report**

### **Site description.**

Orchard Walls is a large, detached property situated on a plot of 0.37 acres. The site is situated on the corner of Beech Avenue and Beech Close with the road boundaries being characterised by a tall Beech hedge. The existing property is accessed off Beech Avenue.

The site lies within an area inset from the Green Belt and within the 5km to 7km buffer zone of the Ockham and Wisley Common Special Protection Area. The site also lies directly adjacent to the Effingham Conservation Area on its northern boundary.

The site is allocated in the Effingham Neighbourhood Plan for up to six new residential dwellings which includes the existing house on the site, a net increase of five dwellings (Policy SA3).

The site is within the Flood Zone 1 (defined as having a low probability of flooding)

### **Proposal.**

Demolition of the existing property and erection of 8 dwellings with a new access provided onto Beech Close.

### **Relevant planning history.**

<b>Reference:</b>	<b>Description:</b>	<b>Decision Summary:</b>	<b>Appeal:</b>
20/P/00737	Demolition of existing property and erection of 6 dwellings with a new access provided onto Beech Close. (Amended description with amended plans received 21 July 2021 - changing the housing mix to provide smaller homes)	Approve 13/10/2021	N/A

### **Consultations.**

#### **Statutory consultees**

County Highway Authority:

- The proposed development has been considered by the County Highway Authority who having assessed the application on safety, capacity and policy grounds.
- No objection subject to conditions relating to:
  - visibility zones to be constructed and provided and permanently kept clear of obstruction;
  - parking and turning of vehicles so that they may enter the site in forward gear;
  - bicycle secure parking;
  - closure of the existing access on Beech Avenue;
  - electric parking socket provision; and
  - a Construction Transport Management Plan.

Thames Water:

- No response received.

Archaeology:

- The site is not within an area identified as being of High Archaeological Potential, and is below the 0.4 ha area that would require the submission of an archaeological assessment and so there is no policy requirement for archaeology to be considered as part of this planning application.
- Surrey Wildlife Trust:
- advise that the LPA seek assurances from the Project Ecologist on the suitability of bat boxes for serotine.

Internal consultees

Head of Environmental Health and Licensing:

- No objections

Effingham Parish Council

Objection on following grounds:

- over development
- viability
- departure from Policy ENP-SA3
- housing need
- parking

Amenity groups/Residents associations

Effingham Residents Association

Objection on following grounds:

- departure from Policy ENP-SA3
- density proposed of the site is contrary to ENP-G2 of the Effingham Neighbourhood Plan as it is almost double (22dph) the neighbouring development in Beech Close (12dph)
- overbearing in this sensitive location on the border of the Conservation Area. The approved scheme had maximum roof heights of 5.926m but this application proposes roof heights of 7.333m
- housing need
- heritage
- trees/hedges
- ecology
- parking
- highway safety

**Third party comments:**

27 letters of representation has been received from 26 persons of 18 different residencies. All of these letters objected to the application on the following grounds:

- Departure from Policy ENP-SA3
- Overdevelopment
- Uncharacteristic density

- Undue scale and massing
- Overlooking
- Overshadowing
- Highway Safety
- Parking
- Viability
- Air quality pollution
- Trees & Hedging
- Ecology (bats allegedly nesting in existing dwelling)
- Heritage & Conservation Area
- Covenant re: access at rear of Plot 8
- Noise and disturbance
- Lighting/Dark Skies
- Utilities/Services
- Visual Amenity
- Potential future development/change of use

### **Planning policies**

- Chapter 2: Achieving sustainable development  
 Chapter 5: Delivering a sufficient supply of homes  
 Chapter 8: Promoting healthy and safe communities  
 Chapter 9: Promoting sustainable transport  
 Chapter 11: Making effective use of land  
 Chapter 12: Achieving well-designed places  
 Chapter 14: Meeting the challenge of climate change, flooding and coastal change  
 Chapter 16: Conserving and enhancing the historic environment

### Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019)

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019. The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003 policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

- Policy S1: Presumption in favour of sustainable development  
 Policy H1: Homes for all  
 Policy D1: Place shaping  
 Policy D2: Sustainable design, construction and energy

- Policy D4: Character and design of new development  
 Policy D3: Historic Environment  
 Policy P5: Thames Basin Heath Special Protection Area  
 Policy ID3: Sustainable transport for new developments  
 Policy ID4: Green and Blue infrastructure

### Guildford Borough Local Plan 2003 (as saved by CLOG Direction 24 September 2007):

- G1(3) Protection of Amenities Enjoyed by Occupants of Buildings  
 G1(8) Light Pollution  
 G1(12) Safeguarding and Enhancement of the Landscape and Existing Natural Features  
 G5 Design Code  
 HE10 Development Which Affects the Setting of a Conservation Area  
 NE4 Species Protection

NE5 Development Affecting Trees, Hedges and Woodlands

Effingham Neighbourhood Plan 2018:

ENP-G1 A Spatial Plan for Effingham  
ENP-G2 Landscape, Heritage, Character and Design  
ENP-G3 Archaeology and the Historic Environment  
ENP-G5 Assessing suitability of sites for residential development  
ENP-H1 New Homes in Effingham  
ENP-H2 Mix of Housing  
ENP-ENV2 Wildlife Corridors and Stepping Stones  
ENP-ENV4 Dark Skies  
ENP-R1 Car Parking  
ENP-SA3 Land at Orchard Walls

Supplementary planning documents:

Residential Design Guide (2004)  
Vehicle Parking Standards 2006/SCC Vehicular and Cycle Parking Guidance 2018  
Climate Change, Sustainable Design, Construction and Energy 2020  
Planning Contributions 2017

Other guidance

Guildford Borough Council - Guidance on the storage and collection of household waste for new developments July 2017  
Technical housing standards - Nationally described space standard 2015 (DCLG)  
National Design Guide (2021)

**Planning considerations.**

Chapter 5 of the NPPF sets out the government's objective of significantly boosting the supply of homes.

The Council can demonstrate a five-year housing land supply with an appropriate buffer. This supply is assessed as 7.00 years based on most recent evidence as reflected in the GBC LAA (2021). In addition to this, the Government's recently published Housing Delivery Test indicates that Guildford's 2021 measurement is 144%. For the purposes of NPPF footnote 8, this is therefore greater than the threshold set out in paragraph 215 (75%). Therefore, the Plan and its policies are regarded as up to date in terms of paragraph 11 of the NPPF.

The main planning considerations in this case are:

- the principle of development
- the layout of the development and the scale and appearance of the buildings
- house types and tenure mix
- the impact on heritage assets
- the impact on residential amenity
- highway/parking considerations
- impact on trees
- ecology
- sustainable design and construction
- flooding
- infrastructure requirements
- presumption in favour of sustainable development

- legal agreement requirements

#### The principle of development

Following the adoption of the Local Plan 2019, the site is no longer designated as Green Belt land and therefore Policy P2 (Green Belt) is no longer relevant; likewise Chapter 13 of the NPPF 2021.

The Effingham Neighbourhood Plan (ENP) is part of the Development Plan following adoption on 10th April 2018. The application site is allocated for residential development under policy ENP-SA3 of the Effingham Neighbourhood Plan. The allocation sets out a number of criteria which any proposal must be considered against. The main criterion being that the site is allocated for residential development up to 6 dwellings replacing the existing house (a net increase of 5). It is noted that this application seeks the erection of 8 dwellings.

As per Policy ENP-SA3, redevelopment of the site is subject to the following:

1. compliance with policies ENP-G2, ENP-H2 and ENP-R1 of this Neighbourhood Plan
2. design to be in keeping with the buildings in the nearby Effingham Conservation Area, including the Grade II listed buildings, and maintaining the shared red brick boundary wall which runs along the boundary of the Effingham Conservation Area.
3. demonstration that the setting of the Effingham Conservation Area, and the character and appearance of Beech Avenue and Beech Close, are preserved and enhanced by the development
4. the landscaping and layout of any proposals should conserve, as far as possible, the beech hedging along the boundary to preserve the character of the Beech Avenue area
5. the main vehicular access is not on to Beech Avenue, to avoid worsening traffic problems along this busy road

The five points above will be appropriately assessed within the relevant sections set out within this report.

#### Number of dwellings proposed

The number of dwellings proposed is greater than that sought by the ENP policy EN-SA3. However, simply exceeding the number of units allocated within a development plan allocation does not in itself represent a reason for refusal, therefore, it is necessary to consider whether any harm would result as a consequence in this uplift. The housing density of the site would remain characteristic of the area with 21.6 dwellings per hectare (for comparison, The Crossroads has 27 dwellings per hectare, and Beech Close has 12 dwellings per hectare). It is further considered that any harm to the amenities of neighbouring residents from this revised proposal would be limited particularly in relation to the accepted principle of the redevelopment of the site

Furthermore, Policy ENP-H2 states: "New residential development should be designed to limit the opportunity for the future extension of small homes to ensure the retention of a sufficient stock of two-bedroom dwellings and provide choice into the future."

The revised scheme that this application proposes would provide for four No. 2 bedroom houses in relatively small plots which would help to reduce the potential for dwellings to be extended over time.

#### The layout of the development and the scale and appearance of the buildings

Paragraph 126 of the NPPF states that "*the creation of high quality, beautiful and sustainable*

*buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".* The NPPF notes in paragraph 130 that decisions should ensure that developments are inline with 6 criteria relating to quality, attractiveness, character, sense of place, mix, safety and accessibility.

Policy D1 of the LPSS provides the Council's requirements with regard to place shaping. Point 4 states that all new development will be designed to reflect the distinct local character of the area and will respond and reinforce locally distinct patterns of development, including landscape setting.

Policy ENP-G2 of the Effingham Neighbourhood Plan covers '*Landscape, Heritage, Character and Design*' and seeks to conserve the essential landscape, heritage and rural character of the Plan Area whilst promoting sustainable development within the village area in accordance with ENP-G1, which sets out the spatial plan for Effingham.

- None of the key strategic views and vistas described in schedule (A) of the Effingham Neighbourhood Plan are impacted by the proposal set out within this application.
- No.22 of the Effingham Local List identified within schedule (B) of the Effingham Neighbourhood Plan relates to the old wall which runs along Beech Avenue to the north-west of the application site, and also forms boundaries of the application site. The wall is shown on the submitted site layout plan (dwg. no. AAL-21-217-P01 Rev A) and is specifically noted to be retained. A condition is recommended to ensure the enforceability of retaining this wall in the interest of heritage.
- The beech hedge is to be retained, as well as the historic boundary walls. Further to this, five of the properties (Plots 4-8) are proposed as chalet bungalows in order to respect the heights and scale of neighbouring properties, which allows the scheme to maintain the character of the built environment.
- The elevations of the dwellings are of a design which are consistent with the character of the locality. As for the final palette of materials, these can be conditioned and therefore one is recommended seeking details and samples.

The dwellings in the surrounding area are of varying designs, ages and sizes. The proposed development of 8 dwellings would have a density of 21.6 dwellings per hectare which compares with an existing density of Beech Close of 12 dwellings per hectare and The Crossroads at 27 dwellings per hectare. (For context, six dwellings on the site would have a density of 16.2 dph). The proposed development would be accessed off Beech Close and would be laid out as a simple cul-de-sac of dwellings. The tall beech hedge that forms a distinctive feature around the road frontages to the site would be retained with the exception of the area where the new access would be created. The current access to the existing dwelling would be closed and replaced with a new infill section of beech hedge to match the existing.

Given the application site does not fall within the Conservation Area and the beech hedging is not protected, there is nothing to protect or prevent the hedge from being removed prior development.

The beech hedging is considered an important feature in the locality and contributes significantly to the appearance of the Effingham Conservation Area. It is therefore considered reasonable to attach a condition to any grant of planning permission securing the retention of the hedge. In this instance, as infill planting is proposed within the existing site access and removal would occur along Beech Close to create a new access, it is suggested that the condition specify that in the event of the death or disease within 5 years from the date of the decision notice, replanting shall



occur.

The proposal for eight dwellings has been carefully assessed against the relevant policies in the development plan. The spacing between the proposed dwellings is considered acceptable. Plots 1, 2 and 3 would remain as proposed in the extant permitted scheme, each being 4 bedroom detached houses. Plots 4 and 5 and Plots 6 and 7 are semi-detached chalet bungalows, to assist in reflecting the scale and character of the adjacent properties in Beech Close. Plot 8 is also a chalet bungalow property, although detached, adjacent to the boundary with properties within The Crossroads that back onto the site. It is noted that the heights of the properties have increased compared with the extant permission; however, this is to accommodate the rooms in the roof, which allow the buildings to be chalet bungalows, rather than bungalows. Whilst the ridge heights have increased by 1.4m, given that the eaves heights commence from the ceiling of the ground floor, and the roofs include barn hips, their bulk is minimised, which allows them to not appear overbearing and this element is not considered to have a detrimental impact.

A condition requiring details of proposed materials is recommended to ensure appropriate materials are used that reflect the semi-rural character of the area.

Landscaping of the site is proposed to ensure the proposals are sympathetic to the site and its surroundings. A landscaping condition is recommended to ensure appropriate landscaping is achieved to ensure visual amenities and neighbouring amenities are protected.

It is considered that the proposed development is compliant with Policy D1 of the LPSS, Policy ENP-G2 of the Effingham Neighbourhood Plan, the NPPF 2021 and the National Design Guide 2021.

#### House types and tenure mix

Policy ENP-H2 of the Effingham Neighbourhood Plan relates to Mix of Housing, providing a localised version of the LPSS Policy H1 in relation to Effingham. This Policy seeks that new residential developments of fewer than 10 units are required to provide the following mix of housing tenures, types and sizes to meet local housing requirements:

- At least 50% of market homes shall have one or two bedrooms.
- The percentage of affordable homes shall be as set out in the Guildford Borough Local Plan (Policy H2)

An exception to these requirements will only be permitted where the intention is to meet a specific housing need which requires a particular size or type of housing or, for reasons of financial viability, an alternative mix is required. Such exceptions must be supported by clear and recent evidence.

In addition to the above, Policy ENP-H2 seeks new residential development be designed in such a way to limit the opportunity for the future extension of small homes for the purposes of ensuring the retention of a sufficient stock of two-bedroom dwellings and provide choice into the future.

The proposed development provides three 4-bed dwellings, one 3-bed dwelling, and four 2-bed dwellings. As such 50% of the market homes will have one or two bedrooms as required by Policy ENP-H2 of the Effingham Neighbourhood Plan.

Plot 1: 4-bed (8-persons), double garage

Plot 2: 4-bed (8-persons), single garage

Plot 3: 4-bed (8-persons), single garage

Plot 4: 2-bed (3-persons)

Plot 5: 2-bed (3-persons)

Plot 6: 2-bed (3-persons)

Plot 7: 2-bed (3-persons)

Plot 8: 3-bed (6-persons), double garage

Given the above and with the addition of a condition removing permitted development rights from the properties (Schedule 2, Part 1, Class A - as this is the main class which would impact dwelling size and could lead to a future unbalance in housing mix); it is considered that the proposal is compliant with Policy ENP-H2 of the Effingham Neighbourhood Plan; Policies H1 and H2 of the LPSS; and the NPPF 2021.

Policy H2 states that in Designated Rural Area, for developments of between 6 and 10 dwellings a financial contribution in lieu of on-site provision will be sought. The application proposal provides for a contribution towards affordable housing which has been assessed through the Viability Assessment Review. Overall, the proposal is considered to comply with the requirement of Policy ENP1-H1, ENP -H2 of the Effingham Neighbourhood Plan and Policy H1 of the Local Plan (2019).

#### The impact on heritage assets

The heritage assets most affected by the proposals are:

- Effingham House (grade II listed)
- Crosslands (grade II listed)
- Effingham Conservation Area

#### *Listed Buildings*

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework addresses proposals affecting heritage assets. Para 199 sets out that "*great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*". The NPPF sets out that in para 195 that the local planning authority "*should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset)*".

Paras 201-205 set out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a statutory test, which states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Policy D3 of the LPSS seeks development of the highest design quality that will conserve, sustain and, where appropriate, enhance the special interest, character and significance of heritage assets and their settings.

The two Grade II listed buildings within the vicinity, Effingham House and Crosslands, are considered to be sufficiently distant from the application site so as to not be adversely impacted by the proposed development.

### *Conservation Area*

Saved Policy HE10 relates to development which affects the setting of a Conservation Area.

Given the location of the development on the edge of the Effingham Conservation Area, it is necessary to consider how the proposed development would relate to this heritage asset. The site itself does not lie within the Conservation Area however the northern and western boundaries of the application site mark the boundary of the Effingham Conservation Area. There is an existing locally listed wall that runs along the northern boundary of the site. The listing identifies that this was the old boundary wall from the site when the site formed part of the orchard/kitchen garden of the Effingham House Estate. The submitted plans reference that this wall is to be retained. A condition relating to the retention of the wall is recommended to ensure it is permanently maintained and retained. This meets one of the criteria set out within Policy ENP-SA3.

On the western boundary of the site which also forms the boundary of the Conservation Area is a mature Beech Hedge which then also runs along the southern boundary of the site. The Beech Hedge is to be retained with the existing access to the property infilled with beech hedging to match the existing. The new access to the development site will require a section of the hedge being removed on the southern boundary. The Beech Hedge is an important feature in the locality and is visually attractive. A condition to ensure the retention of the Beech Hedge is considered necessary and appropriate in this location. Given that Policy ENP-SA3 requires the main access for any proposed development on this site not be via Beech Avenue, as well as requiring the beech hedging to be conserved as far as possible; this scheme is considered to be compliant with Policy ENP-SA3 from this perspective.

Given the above assessment, it is considered that the proposed scheme has been designed to be in keeping with the buildings in the adjacent Effingham Conservation Area, and the setting of the Effingham Conservation Area is fully preserved by this development. The proposal is therefore compliant with Policy D3 of the LPSS, Policy ENP-SA3 of the Effingham Neighbourhood Plan and Chapter 16 of the NPPF 2021.

### The impact on residential amenity

#### *Neighbour amenity*

The properties most affected by the proposals are Nos. 4,5, 6,7,8,9 and 10 The Crosslands and the properties Cherry Trees and Nos. 11 and 12 Beech Close, all of which lie immediately adjacent to the application site.

Plot 1 has no side facing windows at first floor level other than bathroom windows which are recommended to be conditioned to ensure they are obscure glazed and fixed shut below 1.7 metres. Whilst Plot 1 would be on slightly higher land than properties within The Crosslands, due to the slope of the land as well as the separation distances and the orientation of the properties in relation to one another, it is considered that there would be no undue harmful impact on neighbouring amenity.

Plot 8 would be in a similar position to the existing dwelling, Orchard Walls. The property would be a chalet bungalow and no windows within the flank elevation are proposed facing the rear gardens of properties in The Crosslands nor properties in Beech Close. Whilst the extant permission does not include rooms in the roofspace, the upperfloor windows within the proposed

chalet bungalow would be front/rear facing only. Any overlooking from these windows would view the rear ends of the neighbouring gardens. Given the site is within an existing settlement, some overlooking is to be expected and any harm resulting from this scheme is not considered to be detrimental. Given the existing situation, it is considered that any impact of Plot 8 on neighbouring amenity would be no greater than the existing situation.

Plots 6 & 7 would be immediately adjacent to Cherry Trees. The host building would be a chalet bungalow, and it is noted that Cherry Trees is also a chalet bungalow. Given the proposed chalet bungalow limits the maximum height, it is considered that it would not impact unduly on the neighbouring property.

Whilst the points raised in relation to disturbance during the construction period are noted, it is inevitable that there will be a degree of disruption and disturbance during the construction process on any scheme, however, it is not reasonable to refuse a planning application on this basis. However, a condition is recommended in relation to hours of work given the residential nature of the surrounding area.

#### *New occupier amenity*

Policy H1(3) of the LPSS requires all new development to conform to the nationally described space standards (NDSS).

The proposed sizes of each of the 8 dwellings would meet with the DCLG's Technical Housing Standards - Nationally described Space Standards (March 2015) and the requirements of Policy H1 of the new local plan. The dwellings would also have a good standard of private amenity space. As such it is considered that a satisfactory environment in terms of outlook, privacy and adequate garden / amenity space would be provided with a suitable internal layout.

#### Highway/Parking Considerations

##### *Car Parking*

Policy ENP-R1 of the Effingham Neighbourhood Plan relates to Car Parking.

The proposed development proposes 5 visitor spaces and the following car parking spaces for each of the proposed dwellings:

- Plot 1: Two car parking spaces and two garage spaces
- Plot 2: Two car parking spaces and one garage space
- Plot 3: Two car parking spaces and one garage space
- Plot 4: Two car parking spaces
- Plot 5: Two car parking spaces
- Plot 6: Two car parking spaces
- Plot 7: Two car parking spaces
- Plot 8: Two car parking spaces and two garage spaces

The proposed car parking provision meets the requirements of Policy ENP-R1 of the Effingham Neighbourhood Plan and is in line with the Council's parking standards.

##### *Cycle storage*

The cycle parking requirement in the SPD is 1 cycle space per unit and in the guidance from Surrey County Council, it is one space for 1 and 2-bedroom units and two spaces for 3+ bedroom unit. Each dwelling will have a shed in the garden, which measures 1.96m (depth) by 1.24m (width), for the purposes of securely storing bicycles. It is therefore considered that the proposed dwellings would have suitable, covered and secure cycle storage.

### *Highway/Parking Summary*

The proposed development has been considered by the County Highway Authority who having assessed the application on safety, capacity and policy grounds have raised no objections to the proposals subject to the imposition of conditions relating to:

- visibility zones to be constructed and provided and permanently kept clear of obstruction;
- parking and turning of vehicles so that they may enter the site in forward gear;
- bicycle secure parking;
- closure of the existing access on Beech Avenue;
- electric parking socket provision; and
- a Construction Transport Management Plan.

A Construction Transport Management Plan is considered justified in this case due to the location of the site close to the junction of Beech Avenue and Beech Close. In addition, it is considered necessary due to concerns raised by local residents in relation to the existing rear access to Orchard Walls through the garages of properties in the Crosslands. A pre commencement condition relating to a Construction Transport Management Plan is recommended.

### Impact on trees

The site lies outside of the Effingham Conservation Area and there are no Tree Preservation Orders relating to the application site. An Arboricultural Assessment has been submitted with the application. The comments by residents that a number of trees were removed from the site prior to the application being made are noted.

The assessment states:

"Although a lot of trees will be removed to allow the proposed development scheme to be completed, many of these will be mitigated by the planting of some smaller, but high quality trees once construction is completed and the landscaping is being carried out. In this respect, I consider the net arboricultural impact to be acceptable".

The Arboricultural Assessment recommends an Arboricultural Method Statement and a Tree Protection Plan. These can be secured through a pre commencement condition. In addition, a landscaping condition is recommended to secure appropriate tree planting and an appropriate landscaping scheme to ensure the semi-rural character of the area is retained. The Council's tree officer has reviewed the information and is content with the approach.

### Ecology

An ecological assessment report by ethos Environmental Planning dated July 2020 has been submitted with the application and a number of mitigation measures have been detailed in this report. A condition is recommended to ensure the mitigation measures included within this report are carried out. In addition, the ecological assessment report details a number of ecological enhancement measures. A further condition securing these further ecological enhancement measures is recommended to protect the nature conservation and biodiversity value of the site.

### Sustainable design and construction

The NPPF emphasises the need to plan proactively for climate change and new developments are required to meet the requirements of paragraphs 150 through 152 on climate change adaptation, provision of green infrastructure and reduction of greenhouse gas emissions. Paragraph 153 then states new development should comply with local requirements for decentralised energy supply and take account of landform, layout, building orientation, massing and landscaping to minimise

energy consumption.

Policy D2 of the LPSS is the Council's policy to require new development to take sustainable design and construction principles into account, including adapting to climate change, and reducing carbon emissions and is supported by the Climate Change, Sustainable Design, Construction and Energy SPD 2020.

Policy D2 sets out that there is a requirement to achieve a 20 percent reduction in carbon emissions through the use of energy efficiency measures and low or zero carbon technologies and include water efficiency measures in line with building regulations. As this is not a major application these measures can be secured by condition.

The applicant has not submitted and details of waste management to address matters in relation to minerals efficiency, waste reduction and the prioritisation of reuse and recycling for waste material, which is a requirement of policy D2 and guidance set out in the Council's Climate Change, Sustainable Design, Construction and Energy SPD. Further details shall therefore, be secured by condition.

#### Infrastructure requirements

Concerns have been raised regarding significant increase in demand for utilities and local infrastructure in Effingham. The proposal is of a minor scale where the Council is unable to seek financial contributions towards such infrastructure matters. Nevertheless, given the minor scale with a net increase of 7 dwellings it is considered unlikely that the development would put an unacceptable strain on local infrastructure.

#### Viability

Given that this is a small site the provisions of policy H2 of the Local Plan are relevant which seek financial contributions towards affordable housing, rather than on site provision.

The original submission suggested a surplus of around £88,000, however, during the viability review process this has been challenged and by making adjustments the surplus figure is significantly increase. The conclusions are that the proposed scheme would, allowing for a developers profit of 17.5%, produce a surplus of £178,844. This amount would be secured by a s106 Obligation for affordable housing and has been agreed.

The applicants state that this application for the provision of 8 dwellings is driven by the need to balance the viability of the proposals against the policy requirement to provide 50% small dwellings (Policy ENP-H2) which, they state cannot be not achieved with the extant permission.

ENP-H2: Mix of housing states that:

New residential development of fewer than 10 units is required to provide the following mix of housing tenures, types and sizes to meet local housing requirements:

- At least 50% of market homes shall have one or two bedrooms.
  - The percentage of affordable homes shall be as set out in the Guildford Borough Local Plan.
- An exception to these requirements will only be permitted where the intention is to meet a specific housing need which requires a particular size or type of housing or, for reasons of financial viability, an alternative mix is required. Such exceptions must be supported by clear and recent evidence.

By implication this policy requirement enforces imposes plot sizes, which lends itself to higher

densities. The Neighbourhood Plan also recognises that some three-bedroom homes are likely to be necessary to ensure the financial viability of residential development. The proposed development demonstrates that this is true and provides half of the proposed dwellings as two-bedroom and is therefore policy compliant in this regard. It is noted that study's are included in the smaller units. Whilst these are additional rooms within the dwellings, they are considered small, ground floor rooms, unlikely to be put to use as additional bedrooms. It is not unreasonable for buildings of these sizes to have such a room and therefore in this instance does not give rise to concern regarding the numbers of bedrooms.

#### Legal Agreement Requirements

The three tests set out in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 require S106 agreements to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Regulation 123 of CIL Regulations states that a planning obligation may not constitute a reason for granting planning permission where the obligation provides for the funding or provision of an infrastructure project or type of infrastructure and five or more separate planning obligations for the funding or provision of that project or type of infrastructure have been entered into.

#### *Affordable Housing*

Policy H2 of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019) states that, "developments of between 6 and 10 dwellings inclusive (gross), a financial contribution in lieu of on-site provision of affordable housing will be sought which is of broadly equivalent value relative to on-site provision".

A Section 106 Legal Obligation has been provided by the applicant which would secure a financial contribution in lieu of on-site provision of affordable housing. The figure agreed is £178,844 which has been tested through the viability review process as the surplus that would result from the development.

#### Planning balance

The proposed development would provide four smaller homes where there is an identified shortfall in the provision of such dwellings in the area. The Neighbourhood Plan aims to deliver to create a more balanced community by providing a wider choice of homes and widens opportunities for home ownership. This is a significant benefit of the application scheme. Also weighing in favour of the proposal is the financial contribution towards affordable housing which could not be achieved for a lesser development.

The removal of the existing entrance onto Beech Avenue would result in improvements highway safety. Overall it is considered that the benefits of the proposed development would outweigh any harm.

#### Conclusion:

The principle of residential development of this site is established by its allocation with the Effingham Neighbourhood Plan. The proposed development would provide a density of 21.6 dwellings per hectare (dph), which would sit comfortably between 12dph (Beech Close) and 27dph (The Crossroads) and would be in keeping with the character of the surrounding area. It is considered that the proposed development has been designed to be in keeping with the buildings in the adjacent Effingham Conservation Area and the setting of the Effingham

Conservation Area is fully preserved by this development.

There would be no undue harm to the residential amenities of surrounding properties as a result of the development and the new dwellings would provide a good standard of amenity for future occupiers.

The implementation of the development would contribute £178,844 as a contribution towards affordable housing.

The proposed development is considered to be compliant with the development plan, taken as a whole. It is found to be compliant in principle as set out by Policy ENP-SA3 of the Effingham Neighbourhood Plan. The proposed development is further compliant with the other relevant Policies set out within the Effingham Neighbourhood Plan; Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019); Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007); and the NPPF 2021.

The application is therefore recommended for approval subject to the S106 and conditions.