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Mrs Clare Adamson
Planning Department
Elmbridge Borough Council
Civic Centre
High Street
Esher
Surrey
KT10 9SD

Joseph Daniels

33 Margaret Street W1G 0JD
T: +44 (0) 20 7499 8644
F: +44 (0) 20 7495 3773
savills.com

Dear Clare,

**16-18 Oatlands Drive, Weybridge, KT13 9JL
Planning Application 2022/3796**

In response to a request from officers we recently submitted a Flood Risk Sequential Test and Exception Test report¹ (hereinafter referred to as “the Savills report”) to the Council in support of the above planning application. In the officer’s report to committee published on 4th October which recommends approval of the application, officers provided the following comments:

104. *“The applicant has submitted the necessary information which demonstrates that the sequential test had been carried out as per the requirements of the NPPF and the EBC Flood Risk SPD. They have considered other similar sized sites that have been reviewed as part of the Land Availability Assessment for the Local Plan, and therefore subject to Strategic Flood Risk Assessment. The conclusion is that the sequential test is passed. The report considers that as the development itself is located only in Flood Zone 1 that an exception test is not required, however one is carried out to ensure robustness. The Exception test is shown to be carried out in accordance with NPPG guidance and is also shown to be passed.*
105. *As such the proposal is therefore considered to be in accordance with Policy CS26 and the Flood Risk SPD 2016”.*

The above assessment confirms that it is the view of the Council’s professional officers that the Savills report has been prepared in accordance with the relevant planning policy requirements and other guidance, and is therefore acceptable. In recommending the application for approval, it is also implicit that officers accept the report’s conclusions are accurate.

Following the publication of the officer’s report to committee, a document titled “*Comments on Sequential Test for PA 2022 / 3796 Site at 16-18 Oatlands Drive*” has been submitted to the Council by individuals residing at No’s 17, 20 and 22 Oatlands Drive. The document prepared by the site’s neighbours seeks to dispute the conclusions of the Savills report.

At this point, we feel it is important to refer officers back to the planning policy context and methodology chapters of the Savills report, which clearly set out the relevant planning policy tests and defined the criteria upon which the alternative sites were assessed. It is not the purpose of this

¹ Savills; September 2023



letter to repeat the planning policy tests and methodology, however in reaching their conclusions in respect of the Savills report and recommending the application for approval, it is clear that Council officers accepted the report defined the appropriate method of assessment. In contrast, we note that the neighbours document seeks to present an alternative methodology which is inconsistent with the planning policy tests.

In order to assist officers, this letter provides our response to the neighbours statements in their document. In this letter we adopt the same numbered headings as the neighbours report in order to assist the reader.

1. Background

In the neighbours document they state that *“The aim of the sequential test is to assess if there are any other similar sized sites that could accommodate the development which would have a reasonable possibility of being developed in a similar time frame (5 years in this case) and have a lower flood risk.”*

This statement is inaccurate as the policy test within the NPPF (paragraph 162) is whether there are any sites within areas with a lower risk of flooding which are **reasonably available**. The neighbours document throughout fails to recognise this, and also to engage properly with the points made within the Savills report in relation to land ownership.

As a general comment, the neighbours document also seeks to make the case that some of the other sites assessed are sequentially preferable to 16–18 Oatlands Drive for reasons which are irrelevant to the considerations of the sequential test. For example, they claim that where sites are already existing hardstanding, or where the traffic generation would be lower, these are sequentially preferable. These are irrelevant matters in the context of the sequential test.

2. The late publication of Savills report has not allowed for a full review.

The Savills report was submitted to the Council for consideration on 21st September, thereby providing officers with sufficient time to assess the material prior to the publication of the officer’s report on 4th October.

3. Identifying Suitable Sites

Consistent with our comments above, in this section the neighbours document seeks to list out the characteristics of the application site, before concluding that *“Sites should not be allowed to be discounted unless they have MORE constraints than the proposed site.”* Officers will be aware that this is not the relevant policy test to be applied.

The neighbours document seeks to make a case that the development capacity (residential density) of the application site should be lower, and therefore other sites which also have a lower development capacity should be assessed as reasonable alternatives. However, the residential density of the proposed application scheme is a fact, not a point for debate. Consideration of other sites should be based on the quantum of development **proposed** in the application, not a hypothetical alternative.

In any case, the officer’s report to committee (paragraph 37) states that *“Given the proximity to the town centre, a high density and buildings containing flats is considered in-principle to be acceptable on the site, in order to make a more efficient and effective use of land.”* We would also add that the

target density within the Local Plan is expressed as a target for a reason – it is to encourage higher densities. It is not to be viewed as a cap or limit on density.

4. Sites Discounted By Savills Without Sufficient Cause

In this section of the neighbours document it is stated that sites which were dismissed in the Savills document should not have been, because *“the level of constraints cited are equal to or less than those at the application site, and that two sites which were not assessed should have been because their constraints are not greater than 16-18 so [they] have at least the same “reasonable possibility of being developed” but are wholly in an area of less flood risk”*.

As highlighted previously, the relevant policy test is whether sites are **reasonably available** and **deliverable**. Simply because an alternative site exists does not automatically mean it is a sequentially preferable alternative to the application site.

5. Conclusion

The neighbours document repeats the claim that *“So the Sequential Test fails and planning at 16-18 Oatlands Drive should not be permitted, as there are demonstrably several sites that are suitable and with as good a chance as having planning permission granted as 16-18 Oatlands Drive but with a lower flood risk.”* Our rebuttal to this line of argument has already been provided above.

Appendix 1.1

In this section we provide comments on a site by site basis in response to the comments made in the neighbours document.

US3 Torrington Lodge Car Park, Hare Lane, Claygate

We maintain that site US3 is not a sequentially preferable alternative because it’s development capacity within the Council’s LAA² is stated to be 8 units. Therefore on this basis alone it could not accommodate the development proposed at 16-18 Oatlands Drive. This reason alone is sufficient to dismiss site US3, therefore the Savills document did not elaborate further, however additionally, the site is owned by the Council and is an operational, commercial business. No planning permission exists which would extinguish the use. Therefore, the site is not reasonably available or deliverable. The other perceived benefits of the site put forward by the neighbours document (existing amount of hardstanding etc.) are not relevant matters.

US134 Hanover Cottage, 6 Claremont Lane Esher KT10 0EG

The Savills document dismissed site US134 because the capacity of the site as stated in the LAA is 13 units (gross). Therefore, the site is unable to accommodate the development proposed at 16-18 Oatlands Drive, which contains more than double the number of properties. That is the appropriate test on quantum, not an artificially lower figure put forward by the neighbours. Our analysis was supported by reference to the fact that an application for 13 properties was refused by the Council, with the subsequent appeal also being dismissed in 2018. An earlier application was also withdrawn, presumably because it was due to be refused by the Council.

² Elmbridge Borough Council; Land Availability Assessment (2022)

The neighbours document seeks to make a case that the site is comparable because the density of the application at 16-18 Oatlands Drive “*should be lower*” but as previously stated, the residential density of the scheme is an established fact and is supported by officers. The other benefits of the site which are claimed by the neighbours are not relevant matters. Therefore, in addition to being unable to accommodate the applicant’s scheme, the site is not reasonably available or deliverable.

US283 1-5 Milbourne Lane, Esher KT10 9DU

Site US283 was dismissed within the Savills report because although the LAA states that the site has a net capacity of 25 additional units, due to the site’s configuration we do not believe it would be possible to construct new residential buildings to the rear of the existing properties whilst achieving the Council’s required separation distances. The neighbours document claims this is not a valid constraint because the scheme at 16-18 Oatlands Drive also has facing dwellings below this standard.

For reference, the shortfall between the two buildings at 16-18 Oatlands Drive is just 35cm, which officers have considered in their report and concluded is within an acceptable tolerance, particularly taking into account the sloping nature of the site. For context, the total depth of the site at 16-18 Oatlands Drive is 86m, and both buildings measure 19.5m in depth.

By comparison, the distance between the rear elevation of the retained houses at Milbourne Lane and the rear site boundary is 34.8m. To achieve the desired degree of separation (22m) would require any new residential building to have a maximum depth of circa 13m, and be constructed hard against the rear boundary where there are mature trees present. Provision of access, any outdoor amenity space and car parking would clearly be problematic also. In addition this site is in three separate ownerships so is not considered available.

In the Savills report we highlighted an unsuccessful application in 2006, which proposed a scheme comprising the demolition of one house on Milbourne Lane to provide a new development of just 12 flatted dwellings. A revised application, for a smaller quantum of development (9 units), was subsequently submitted and this application was also refused by the Council. The subsequent appeal was then dismissed on several grounds, but not least the impact of the development upon the character of the area, and the bulk, scale and mass proposed.

For the reasons given, we maintain that site US283 cannot accommodate the same quantum of development proposed at 16-18 Oatlands Drive and the site should be dismissed on this basis.

US339 Walton Car Park KT12 3ET

Site US339 was dismissed in the Savills report for various reasons, not least the fact that the site’s capacity as stated within the LAA is 17 units, approximately half the capacity of the site at 16-18 Oatlands Drive. Therefore, it could not accommodate the same quantum of development. We also highlighted that the site is owned by the Council (not deemed surplus to requirements), and is currently in use as an operational commercial business. For these reasons, and because there is no planning permission which extinguishes the current commercial use, the site is not reasonably available or deliverable. These points are not engaged with in the neighbours document, although they reference the site’s other characteristics as benefits, however these are not relevant matters.

US527 9 Cricket Way Weybridge

Site US527 was dismissed in the Savills report because the assumed development capacity stated within the LAA is 5 units (net) and 6 units (gross). On this basis alone, it plainly cannot accommodate the same quantum of development proposed at 16-18 Oatlands Drive. The neighbours document disputes this stating that simply because the site is of the same size, it must be able to accommodate the same number of units at 16-18 Oatlands Drive. This is clearly an overly simplistic and flawed analysis.

We also note that the neighbours document contradicts itself in its analysis of this particular site since the site is predominantly a residential garden and not existing hardstanding, which the neighbours document elsewhere states should be prioritised over 16-18 Oatlands Drive. This illustrates that the residents document is not objective in its analysis, and merely seeks to find reasons to prioritise other sites which are not in the vicinity of the neighbours' homes.

US443 47 Portsmouth Road Thames Ditton

Aside from the surrounding heritage constraints, the Savills report dismissed site US443 because there is no planning permission in place to extinguish the existing business use. Therefore under the NPPF definition of reasonably available, the site is not a viable alternative to accommodate the development proposed at 16-18 Oatlands Drive.

Furthermore, the EBC Flood Risk SPD (2016) at paragraph 3.3.7 states that a site is only considered 'reasonably available' under specific circumstances which include where the site is "*owned by the applicant, for sale at a fair market value or is publicly owned and surplus*". Therefore we maintain the site does not meet these criteria because it is owned by Aldi who are pursuing its development for food retail use.

Following the dismissal of the recent appeal, planning officers at the Council will no doubt be aware of Aldi's intentions for the site, however we consider that a revised application is more than likely. Therefore contrary to the comments in the neighbours document, there is no requirement for the applicants at 16-18 Oatlands Drive to evidence Aldi's future intentions for the site, even if this were possible.

The neighbours document then goes on to state that two other sites within the Savills report should have been assessed.

1. US475 Willow House, Mayfair House and Amberhurst, Claremont Lane Esher.
2. US127 30 Copsem Lane, Esher

US475 Willow House, Mayfair House and Amberhurst, Claremont Lane Esher.

Site US475 was originally dismissed because it is not comparable in size. The site is over 40% larger than the site at 16-18 Oatlands Drive. The LAA states that the site's capacity is 60 units. A planning application submitted in 2019 for the site's development for 59 dwellings was withdrawn. The timing of this application is consistent with the production of the LAA and the promotion of the site as a development opportunity. However since then, Land Registry information shows that the previous option agreement which was agreed with the three landowners at the time has lapsed. As such any immediate development opportunity is considered to have passed.

We also note that an application in 2018 at Hanover Cottage (site US134), which is directly adjacent to the site, proposed demolition of an existing dwelling followed by the construction of just 13 units. The application was refused by the Council for two related reasons, namely that the development would be out of character with the surrounding area, and there would be harm to the street scene due to the bulk and massing of the development. An earlier application for the same quantum of development had already been withdrawn.

The applicant appealed the Council's decision and the Inspectorate upheld the Council's reason for refusal, concluding that significant unacceptable harm would result. The Inspector's decision noted that Claremont Lane is predominantly characterised by large detached dwellings set within generous plots and that the proposal including flats would appear oversized and cramped.

Based upon current market valuations in the local area, to provide adequate incentive for all three current landowners to sell (applying the industry standard of circa 20% above market value), would require a financial outlay of circa £9.5m to acquire the site. Taking into account this price, the quantum of development that would be required from the site in order to make any development scheme viable, including the required developer's profit, would be vastly at odds with the existing character of Claremont Road. The scale of development required would be larger than that which has already been refused by the Council and dismissed at appeal.

Within the NPPF's definition of "developable" it is stated that "*to be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be **viably** developed at the point envisaged*". Given the foregoing we do not consider the site could be viably developed and therefore it is dismissed.

US127 30 Copsem Lane, Esher

Site US127 was originally dismissed because it is not comparable in size. According to the LAA, the site measures 0.55ha, which is 57% larger than the application site at 16-18 Oatlands Drive. The EBC Flood Risk SPD (2016) is clear that to be considered reasonably available, a site must be of a comparable size in order to accommodate the requirements of the proposed development.

Despite the larger site area, a planning application for 31 flats in 2021 was refused for various reasons. A revised planning application for 26 units has been submitted and is currently pending assessment. Therefore, it is not considered that the site could accommodate the requirements of the proposed development (33 residential units). Should this application be granted, the site would benefit from a permission for a similar development which is likely to be implemented (para 3.3.8 of the SPD).

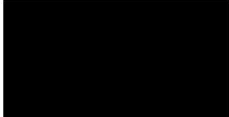
Therefore, since the site is subject to current and on-going redevelopment proposals, it is not considered that the site is reasonably available, since per the criteria within the Flood Risk SPD, it is not owned by the applicant, for sale at a fair market value or is publicly owned and surplus.

Summary & Conclusion

The Savills report was prepared in accordance with the relevant planning policy tests and a clearly defined methodology, against which alternative sites were assessed. The Savills report found that there were no **reasonably available** and **deliverable** alternative sites which could **viably** be developed. In recommending approval of the application, the Council's professional officers have already accepted the conclusions of the Savills report.

The neighbours document received subsequently seeks to dispute these conclusions however as demonstrated within this letter, the content of the Savills report is accurate, robust and, crucially, follows the required method of assessment, which the neighbours document does not. Therefore, the only conclusion that can be reached is the conclusion that officers have already made in recommending planning approval.

Yours sincerely,



Joseph Daniels
Associate Director