

# Planning report

**2023/2860**

**Land at 12 and Land West of  
10 to 26 Claygate Lane Esher Surrey KT10 0AQ**

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livingSPACE

ARCHITECTURAL DESIGN

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# Application details

**2023/2860 - Land at 12 and Land West of 10 to 26 Claygate Lane Esher Surrey KT10 0AQ**

**“Development comprising of 6 houses (2 detached and 2 pairs of semi-detached) and 3 flats and associated hard and soft landscaping following demolition of the existing house.”**

The site is approx. 0.34 hectares comprising both an existing detached house and garden and a larger greenfield parcel of land which is historic woodland and on which most of the new homes are proposed (plots 3 to 9).

The proposal involves the felling of 35-45 trees and demolition of two outbuildings as well as the existing detached house at 12 Claygate Lane, the creation of a new access road onto Claygate Lane, and the erection of 5 buildings comprising 9 homes (2 detached, 3 flats, 4 semi-detached).



## About this report

This planning report has been prepared by Living Space Architectural Design, who were commissioned by residents adjacent to the site to assess the planning application 2023/2860 in light of relevant policies.

It has been informed by a detailed analysis of the submitted application documents, as well as site visits made on 18/19 November 2023 and additional input from residents.

Policies considered are summarised under 'Key points - summary' below, and further referenced under 'Key points - details' that follows, with relevant points emphasised in bold text.

# Key points - summary

## 1. Absence of benefits

The applicant should show that **benefits of the development outweigh the harms**. Unlike in a comparable backland application at 5 Hinchley Way (2021/1431), which was allowed by the Inspector at appeal, no affordable housing is being brought forward here, and the applicant argues that a compliant Section 106 financial contribution cannot be made, on viability grounds. While this proposal would make a small contribution towards the Council's target for new housing, it does not accord with the strategy of targeting brownfield or making efficient use of land, and indeed highlights the difficulties of trying to shoehorn new market housing onto inappropriate greenfield sites.

## 2. Harms - character of the area, design and amenity

As at 5 Hinchley Way, and as raised by officers in pre-application discussions, the proposal does not accord with the character of the area. The proposal does not comply with policies **CS8** and **CS17** or the relevant **Design and Character SPD (Thames Ditton, Long Ditton, Hinchley Wood & Weston Green)**. The proposal will have a negative impact on the Local Heritage Asset The Woodlands, 112 Manor Road North. The proposal does not comply with **DM2**, in particular appearance, daylighting, and evidence that the proposal has taken account of landform, layout, building orientation, massing and landscape to minimise energy and water consumption. **DM10** and **DM12** are also relevant here.

## 3. Harms - biodiversity loss, loss of trees, poor landscaping

No biodiversity statement or ecological appraisal has been provided. A high value urban woodland greenfield site will be lost. 35-45 trees are proposed to be removed. Rich and vital habitat for birds, mammals, bats, insects and other wildlife will be lost. Details of replacement planting and biodiversity features have not been provided. The proposed application therefore does not comply with policies **CS15**, **DM21** or **DM6**.

## 4. Harms - flood risk and surface water management

The proposal will significantly increase surface water run off to Claygate Lane, which is at high risk of surface water flooding, both depth and velocity. No details of SuDS measures have been provided. It therefore does not comply with policy **CS26**.

## 5. Harms - access and traffic

Notwithstanding the provision of a flawed swept path analysis, the proposed access road is inadequate for service and emergency vehicles and would not comply with policies **DM7**, **DM8**, the **NPPF**, or **Approved Document B**. Existing traffic issues in the surrounding streets would be exacerbated. Road safety issues have not been resolved.

## 6. Application flaws


The application does not provide enough detail to enable residents to make fully informed comments. For example, no details of boundary treatments have been submitted, so neighbouring residents can't fully assess the impact on their amenity. Issues and errors have been identified in the supporting evidence supplied. The Design and Access statement also contains errors, referring to incorrect or out of date policies, and is vague and sketchy on details. It has not provided any justification for its stated claims that the proposed development will comply with relevant policies.

# Key points - details

## 1. Absence of benefits

### Policy context

There is considerable pressure on all local authorities, Elmbridge included, to deliver new housing to contribute towards government targets. The assessment made for the emerging Local Plan for Elmbridge calculates that 647 new homes per year will be needed in the borough: *"Using 2022 as the base year for calculation, the housing need for the borough equates to 647 dwellings per annum and over the plan period 9,705 homes."* In order to meet this very challenging target, it is important that all developments make "efficient use of land", i.e. are high density, and that all housing provided matches the size and tenure needed - which is predominantly smaller affordable homes. Brownfield (previously developed land) and public sector land is targeted first, but some of the need will be met by infill and backland developments.

 Extract from the existing DMP:

*In Elmbridge, 'backland' development has made a meaningful contribution to the supply of housing as an efficient use of land, particularly large and underused gardens, and in some locations has become established as characteristic of the area. As such, the Council is not seeking to resist all development of residential gardens. However, housing development of this type needs very careful consideration and benefits from early engagement with all interested partners to develop a scheme that is sensitive to the constraints such sites will have in order to preserve the character of the area and the amenities of neighbouring residents.*

### Issues

#### Housing supply and efficient use of land

In reference to the above extract from the Development Management Plan, it is to be noted firstly that the 'backland' development proposed in this application is not characteristic of the area, as agreed by planning officers and by the Inspector in the case of the application at 5 Hinchley Way, and secondly that this is not only development of a residential garden, but also, and to a greater extent, development of a greenfield site consisting of high value urban woodland. Minimal engagement with the community has been undertaken, and the character of the area and amenities of neighbouring residents will not be preserved.

While the proposed development would make a small contribution towards meeting the borough's targets for 1, 2 and 3 bed housing, the density of the proposed development falls short of the policy requirement for 30-40 dwellings per ha. The applicant's somewhat sophisticated argument that the target density metric could be considered to be met if the area of 'undevelopable' land (ie that covered by RPAs) is not counted points towards a conclusion that this site is not a viable location for policy compliant development to take place.

#### Affordable housing

No affordable housing is being brought forward here, and the applicant argues that a policy compliant Section 106 financial contribution cannot be made, on viability grounds.

## 2. Character of the area, design and amenity

### Policy context

The principle of harm to the character of the area caused by a backland development such as this has been established and agreed by the Inspector in the case of the similar application at 5 Hinchley Way, who stated “As a result of the introduction of backland development with smaller plots than typical of the local area there would be harm to the character and appearance of the local area.”

The present application has a number of distinct features which would be more harmful than the development at 5 Hinchley Way.

#### Policy CS17

##### *Local Character*

New development will be required to deliver **high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape, and heritage assets, and protecting the amenities of those within the area.** Innovative contemporary design that embraces sustainability and improves local character will be supported (see CS1-Spatial Strategy). New development should enhance the public realm and street scene, providing a clear distinction between public and private spaces. **Particular attention should be given to the design of development which could have an effect on heritage assets** which include conservation areas, historic buildings, scheduled monuments, and the Borough's three historic parks and gardens.

#### Design and Character SPD

#### Companion Guide - Thames Ditton Long Ditton Hinchley Wood and Weston Green

#### Policy DM2 - Design and amenity`

All new development should achieve **high quality design, which demonstrates environmental awareness and contributes to climate change mitigation and adaptation.** The Council will permit development proposals that demonstrate that they have taken full account of the following:

- a. All development proposals must be based on an understanding of local character including any specific local designations and take account of the natural, built and historic environment. Development proposals will be expected to take account of the relevant character assessment companion guide in the Design and Character SPD.
- b. Proposals should preserve or enhance the character of the area, taking account of design guidance detailed in the Design and Character SPD, with particular regard to the following attributes:

- **Appearance**
  - Scale
  - Mass
  - Height
  - Levels and topography
- **Prevailing pattern of built development**
- **Separation distances to plot boundaries**
- Character of the host building, in the case of extension

- c. **Proposals should take account of landform, layout, building orientation, massing and landscape to minimise energy and water consumption.**
- d. Development proposals should create safe and secure environments and reduce opportunities for crime.
- e. To protect the amenity of adjoining and potential occupiers and users, development proposals should be designed to **offer an appropriate outlook and provide adequate daylight, sunlight and privacy.** This is particularly important when considering proposals for windows, external staircases, balconies, raised terraces and roof gardens.

#### Policy DM10 Housing

- a. *Housing mix*  
Housing development on sites of 0.3 hectares or more should promote house types and sizes that make **most efficient use of land and meet the most up to date measure of local housing need, whilst reflecting the character of the area.**
- b. ...
- c. *Living standards*  
Proposals for new housing development or the conversion of larger dwellings into smaller units will be expected to offer an appropriate standard of living, internally and externally. Minimum space standards will be applied to all new housing development (including conversions) in line with the table below unless these are superseded by nationally applicable standards, in which case, the nationally described space standards will apply. Where developments come forward that are smaller than the space standards but offer purpose built, innovative and unique accommodation to address a specific need the Council will consider such proposals on their merits. **Residential accommodation should offer residents an appropriate level of light, outlook (particularly when the accommodation is lit solely by rooflights) and amenity, including gardens or outdoor space, commensurate with the type and location of housing proposed.**
- d. *Development on garden land*  
Housing development on garden land and/or to the rear or side of existing residential property will be appropriate provided that:
  - i. **The scheme as a whole has been well designed to respect the character of the area,**
  - ii. **The relationship between buildings within and outside the site ensures that privacy and amenity of existing and future residents are preserved,**
  - iii. **The means of access is appropriate in size and design to accommodate vehicles and pedestrians safely and to prevent harm to the amenities of adjoining residents, and**
  - iv. **A high standard of landscape is incorporated into the design.**
- e. ...

#### Policy DM12 Heritage

- f. *Locally Listed Buildings and other non-designated heritage assets*
  - i. The Council will seek to retain these, where possible, and **will assess proposals which would directly or indirectly impact on them in the light of their significance and the degree of harm or loss, if any, which would be caused.**

## Issues

The planning department have already raised concerns about the harm to the character of the area in the pre-application meetings. In Hinchley Wood backland developments do not maintain the character of the area for several reasons, and additionally the current proposal falls short on design quality in a number of areas.

### **Character of current street patterns and layouts not respected**

This cul-de-sac backland proposal is not in keeping with the prevailing pattern of surrounding streets. Gardens backing onto gardens are an important part of the character of this area, providing a high level of amenity and privacy. Current gardens are not overlooked as they would be in this proposed development. The proposed new access road fails to create a coherent streetscape, and instead cuts through what is currently a quiet, leafy and peaceful haven.

### **Quality not 'commensurate with type and location of housing proposed'**

The overall level of amenity and quality of design is not 'commensurate with the type and location of housing proposed' (DM10) - ie detached and semi-detached market housing in Hinchley Wood. As described in the relevant Design and Character SPD Companion Guide, "*Large semi-detached and detached houses are generally set in large deep plots with gardens to the front and rear*", and "*The consistency in house design and use of materials within roads is a strong part of the character of this part of the settlement area. This is combined with the high quality public realm, particularly the presence of street trees, which accentuates the leafy suburban character.*"

### **Design not in keeping with quality of surrounding area**

The present housing stock in the vicinity, predominantly built in the 1930s, presents a varied street scene, kept in harmony with elements of shared style characteristics. Personalisation by residents over the years has added to this quality. The design and style of the proposed dwellings neither maintains that character, except in so far as it offers a generic pastiche, nor does it propose more interesting and innovative design elements that could enhance the area. The proposed finish with tile hung elevations creates a heavy bulk; a scheme with a massing, design and finish that sits in the background would be more appropriate in this context.

### **Design has been dictated by the site constraints - cramped and awkward layout**

Design considerations are subordinate to the dictates of the site constraints, resulting in a cramped and awkward layout. The relationship between plots 3-5 and plot 2 is particularly bad. Plot 2 is positioned sideways to the access road, such that the 'front' of the house faces onto cramped parking spaces, and is awkwardly approached sideways, while the 'back' of the house, with its large bifold windows, faces towards the entrance of the site from Claygate Lane.

### **Poorly designed amenity spaces, inadequate landscaping**

The proposed design does not provide the incoming residents anywhere near the same amenity as is characteristic of the area, offering only small poorly designed 'communal garden' spaces simply occupying the gaps between houses or between the site boundary and houses rather than designed to create attractive outdoor spaces. No landscaping proposal has been provided.

### **The proposed design does not comply with Policy DM2 c)**

The constraints of the site have prevented the optimising of orientation to manage solar gain, and the proposed dwellings have very poor form factor (ratio of heat loss surface area to internal volume), with unnecessary protrusions, corners, dormer windows and inset porches. The resulting increase in heat loss means that the required energy performance standards will need to be met by more costly fabric measures such as increased insulation. The design therefore does not "*take account of layout, building orientation, massing and landscape to minimise energy... consumption*".



### **Poor outlook from habitable rooms of proposed dwellings**

The design affords poor outlook from habitable rooms of the proposed dwellings, to the detriment of the future inhabitants' privacy and daylight, as well as views. This includes living room looking on to parking spaces (plot 2); ground floor bedrooms with large windows looking directly onto the access road and pavement, with no separation (plots 3 and 4); and study and kitchen windows set at 1-1.5m distance from (unspecified) boundary treatment (plots 2 and 9) - in the case of the study of plot 9, there is an existing ~10ft high boundary hedge here, in the garden of 19 Cumberland Drive, which is not shown on the submitted site plan.

### **Poor daylighting in proposed homes**

No daylighting assessment is provided. The study and kitchen windows mentioned above, right on the boundary, will receive scarcely any light. The site is extremely shady, under the canopy of several fine and large mature trees. The downstairs living room and study of plots 6 and 7, in particular, will be heavily shaded by T21, as well as upstairs bedrooms. A large number of upstairs rooms across the whole proposal rely on small rooflights for daylighting. The upstairs flat of Plot 5, although occupying the entire top floor, is single aspect, and bedroom and bathroom are lit only by small rooflights.

### **Provided plans and elevations inaccurate and sketchy**

There are errors in the provided plans - for example, and significantly, an upstairs bathroom window in plots 8 and 9 is shown on plan but not on elevation. This elevation of plot 9 is on the boundary with the garden of 19 Cumberland Drive. Looking at the elevation, planners and residents will be misled to believe that there will be no overlooking from first floor level.

### **Overbearing impact on neighbouring properties**

Plots 2 and 9 are built almost up to the boundary with neighbouring gardens. The elevations in both cases are 2 storey predominantly blank brick walls. Replacing the existing situation of a leafy, green and spacious outlook, this will have an overbearing impact on the residents of the properties affected. Plots 6 and 7 front directly onto the garden of 13 Cumberland Drive across the very narrow access road, with scarcely any separation.

### **Minimal separation between proposed access road and neighbouring gardens**

The new access road, with its associated lighting, traffic, noise, runs for most of its length along the boundary with neighbouring properties, with minimal separation (<0.5m - 1m).

### **No external lighting scheme provided**

Light leakage from the development would be obtrusive, in contrast to the current wooded outlook. In particular, lighting of the access road will be necessary, even if provided by low domestic units. The cycle stores are required to be well lit for security, and this lighting would have to be minimum 2 m off the ground level to achieve this effectively. Combined with window light leakage and vehicle traffic, the current residents' outlook would be completely changed. No external lighting scheme has been provided to enable assessment of the impact. The necessary external lighting must also be expected to have a negative impact on biodiversity including protected species (bats) - see below.

### **No boundary treatments shown or described**

Given the issues above, it might be expected that the applicant would take some care to consider boundary treatments, both the current situation at each point, and a design that might make an attempt to mitigate some of the worst impacts. However, while the site plan has in places sketchy indications of some boundary hedging and 'semi-mature' trees, no detail is provided. The hedging shown on the site plan does not match either the groups shown in the arboricultural report Tree Protection Plan, nor the actual situation on the ground. The 'semi-mature' trees are not shown at a realistic size. Minimal space is allowed for boundary planting,

and if the alternative of high fencing is considered, while it might provide the necessary privacy, this would be out of character and therefore unacceptable. No description is provided of boundary treatments anywhere. This makes it impossible for residents to be able to comment or object with a full understanding of the impact on their amenity.

### **Heritage - impact on The Woodlands, 112 Manor Road North**

The Local List adopted by Elmbridge Borough Council in July 2023 identifies The Woodlands, 112 Manor Road North, as a Local Heritage Asset (Building reference: LLEL184).

The listing description notes that *"The long narrow plot on which this house stands is shown on early mapping as part of the open field system of the Manor of Claygate, potentially medieval in date."* This characteristic of the site contributes to its merit for inclusion under criterion A – *Rarity* *"Unusually retains long narrow plot. Rare surviving evidence of open field system"* and D – *Archeological Value*, *"Potential to contain evidence to inform and enhance knowledge of the site/building's development and phasing, including in a local/County-wide context."*

The long narrow plot is the greenfield part of the site of the application under consideration here. The development proposal, entailing the loss of all but seven trees, and creating a new cul-de-sac of modern houses, would erase the value of this part of the land as a historical asset. The proposal would also adversely impact the house and remaining garden at The Woodlands.

The Ordnance Survey map below shows the distinctive wooded plot as it was in 1866-1868. It is also shown on the earlier 1840s tithe map.



*Ordnance Survey Surrey Sheet XII Surveyed: 1866 to 1868, Published: 1871. Reproduced with the permission of the National Library of Scotland CC-BY, available to view online:*

<https://maps.nls.uk/view/102347442#zoom=7&lat=5413&lon=10122&layers=BT>

# 3. Biodiversity loss, loss of trees, landscaping

## Policy context

New legislation requiring a mandatory 10% net gain in biodiversity (BNG) is coming into effect for new major applications from the end of January 2024, and for small sites from April 2024, and so it does not apply to this application. However, the existing Policy CS15 of Elmbridge Borough Council Core Strategy does apply in this case. In [Development Management Advice Note 7: Supporting biodiversity and encouraging nature in development](#) Elmbridge Borough Council has set out detailed guidance in line with current metrics and definitions, and in light of the forthcoming new requirements, to advise developers on how to satisfy Policy CS15. While developing policies allow scope to compensate for biodiversity loss via off-site contributions, this is to be seen as a 'very last resort', as stated in DM Advice Note 7. Furthermore, Policies DM21 and DM6 in the current Development Management Plan call for preservation / conservation of existing landscape and habitat, and do not contain any provision for mitigation via off-site contributions. Policy DM6 focuses on the contribution of trees to landscape character and amenity, and is more qualitative than quantitative.

It appears that although Elmbridge Borough Council has raised the issue of biodiversity in pre-application discussions, the applicant has taken no steps to respond to those concerns.

💡 **Policy CS15** 'Biodiversity' of the Core Strategy seeks to ensure new development **does not result in a net loss of biodiversity and where feasible contributes to a net gain.**

💡 **Policy DM21** reinforces the provisions of CS15.

*In accordance with Core Strategy policy CS15 – Biodiversity, **all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features.***

### 💡 **DM6 - Landscape and trees**

*Development proposals should be designed to include an integral scheme of landscape, tree retention, protection and/or planting that:*

- a. **Reflects, conserves or enhances the existing landscape** and integrates the development into its surroundings, adding scale, visual interest and amenity,
- b. **Contributes to biodiversity by conserving existing wildlife habitats, creating new habitats and providing links to the green infrastructure network,**
- c. *Encourages adaptation to climate change, for instance by incorporating Sustainable Drainage Systems (SuDS), providing areas for flood mitigation, green roofs, green walls, tree planting for shade, shelter and cooling and a balance of hard and soft elements,*
- d. **Does not result in loss of, or damage to, trees and hedgerows that are, or are capable of, making a significant contribution to the character or amenity of the area, unless in exceptional circumstances the benefits would outweigh the loss,**
- e. *Adequately protects existing trees including their root systems prior to, during and after the construction process,*
- f. *Would not result in the loss or deterioration of irreplaceable habitats including ancient woodland and ancient or veteran trees, unless in exceptional circumstances the benefits would outweigh the loss, and*

**g. Includes proposals for the successful implementation, maintenance and management of landscape and tree planting schemes.**

To ensure high quality landscape schemes and depending on the scale, nature and location of the development, the Council will seek appropriate conditions attached to planning permissions to secure various improvements. These may include tree retention and protection, the submission and implementation of a landscape or treeplanting scheme, surface materials, screen walls, fences and planting.

Tree Preservation Orders (TPOs) In considering consent for works to trees protected by TPO, the Council will:

- i. Assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and**
- ii. In the light of this assessment consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.**

## Issues

### Value of existing woodland


Urban woodland is a high value habitat, <https://www.woodlandtrust.org.uk/trees-woods-and-wildlife/habitats/urban-trees-and-woodland/>, and this particular site not only provides a rich habitat for a diverse range of plantlife and wildlife, but also is of unique value to the people who live around it. The woodland in question also has a historical value, inspiring the name of what is now 112 Manor Road North, as can be seen from the 1871 Ordnance Survey map, surveyed in 1866 to 1868, reproduced above. One of the reasons for inclusion of The Woodlands as a Local Heritage Asset in Elmbridge Borough Council's July 2023 list is the long narrow plot, evidence of the "open field system of the Manor of Claygate, potentially medieval in date".

### Baseline site ecology

No Habitat Survey or Ecological Appraisal has been submitted. The only evidence provided to establish the baseline site ecology is a bat survey and a reptile survey, both of which are severely limited not only in the species considered but also the locations surveyed.

Oak trees host at least 280 species of insects - more than any other native tree. As well as insects, a wealth of birds and small mammals and insects are present on the site - as identified by residents, this includes goldfinches, spotted woodpeckers, nuthatches, long tailed tits, owls, foxes in addition to bats, seen at dusk at various places near the land.

It is to be noted that some site clearance has taken place since the date of the arboricultural report; however, Elmbridge Borough Council's approach as stated in DM Advice Note 7 is to take the habitat state at January 2020 as the baseline for biodiversity net gain, in accordance with Schedule 12 of the Environment Act (2021):

 From DM Advice Note 7: *Schedule 12 of the Environment Act (2021) deters against site clearance ahead of a planning application by allowing planning authorities to recognise any habitat degradation since 30th January 2020 and to take the earlier habitat state as the baseline for the purposes of biodiversity net gain.*

## Bat Survey

### Survey restricted to 12 Claygate Lane

The submitted Bat Survey was restricted to the house at 12 Claygate Lane. It did not assess the majority of the site, including the woodland and two outbuildings (a former stable block with water source and another building), which have good roosting potential for bats.

### Trees to be felled not surveyed for roosting bats

The survey did not find evidence of bats roosting in the house at 12 Claygate Lane. However, it acknowledges “the surrounding amenity gardens, scattered trees and central strip of scrub habitat making up part of the site provide good foraging habitat for common bat species, with areas of woodland and pasture in the wider landscape offering further foraging and commuting habitat, and trees and buildings within the local area additionally offering potential roosting opportunities”. A survey for roosting bats in trees is required where there is proposed felling of a tree which *“is within ancient woodland or parkland; is deciduous; is large and irregular (although individual bats are frequently found in smaller trees); has natural cavities, most commonly ash, beech or oak; is damaged by rot, weathering, woodpeckers or lightning - it can be dead; has loose bark; is covered in dense ivy”*. Most of these circumstances are relevant in this case, but the trees to be felled have not been surveyed for roosting bats.

### Outbuildings not surveyed for roosting bats

No mention is made of the existing outbuildings on the site itself – the ecologist may not have been made aware of these, and the proposal to demolish them. A survey for roosting bats is required where a building with roosting potential is proposed to be demolished – this includes outbuildings. The two outbuildings have not been surveyed for roosting bats.

### Species of bats found not specified

The survey found bat activity on all three surveys, including Common Pipistrelles and another unnamed pipistrelle species, and possibly other unspecified species - the report is unclear.

### Impact of lighting on bats not considered

The survey recommends lighting be designed in accordance with the Institution of Lighting Professionals (ILP) Guidance Note 08/23 Bats and Artificial Lighting at Night, but no lighting scheme has been submitted and there is no evidence that the applicant has considered the impact of the necessary works and post-works lighting on protected species.

## Arboricultural Report

The Arboricultural Statement provided is flawed and contradicts Tree Preservation Order EL:12/24 <https://edocs.elmbridge.gov.uk/IAM/IAMCache/2003126/2003126.pdf>.

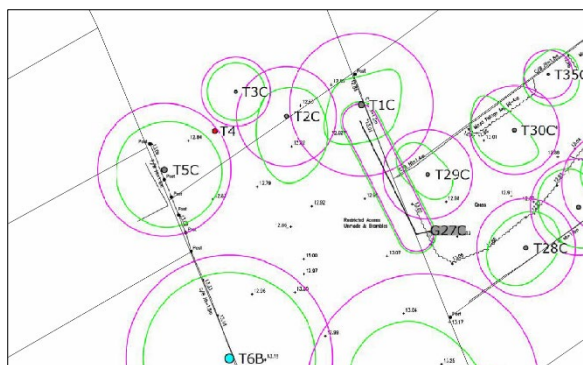
### Misleading representation of scale of tree removal, not supported by submitted site plan

The arboricultural report states that 15 individually identified trees and two further groups of trees are proposed to be removed. However, the submitted site plan shows only seven retained trees - the six which are protected by a TPO, plus one other, a young yew - and only one identifiable retained group. This indicates that the proposed development will in fact entail the loss of approximately 35 - 45 trees (noting that not all trees have been counted, conservatively assuming groups contain 2-3 trees, and after accounting for dead trees).

### RPA of off-site trees not respected

Trees T2 and T5, both in the garden of The Woodlands, 112 Manor Road North, have RPAs which extend onto the site. The arboricultural report proposes removal of the trees – however, the owner of 112 Manor Road North intends to retain both trees, and therefore their RPAs must be

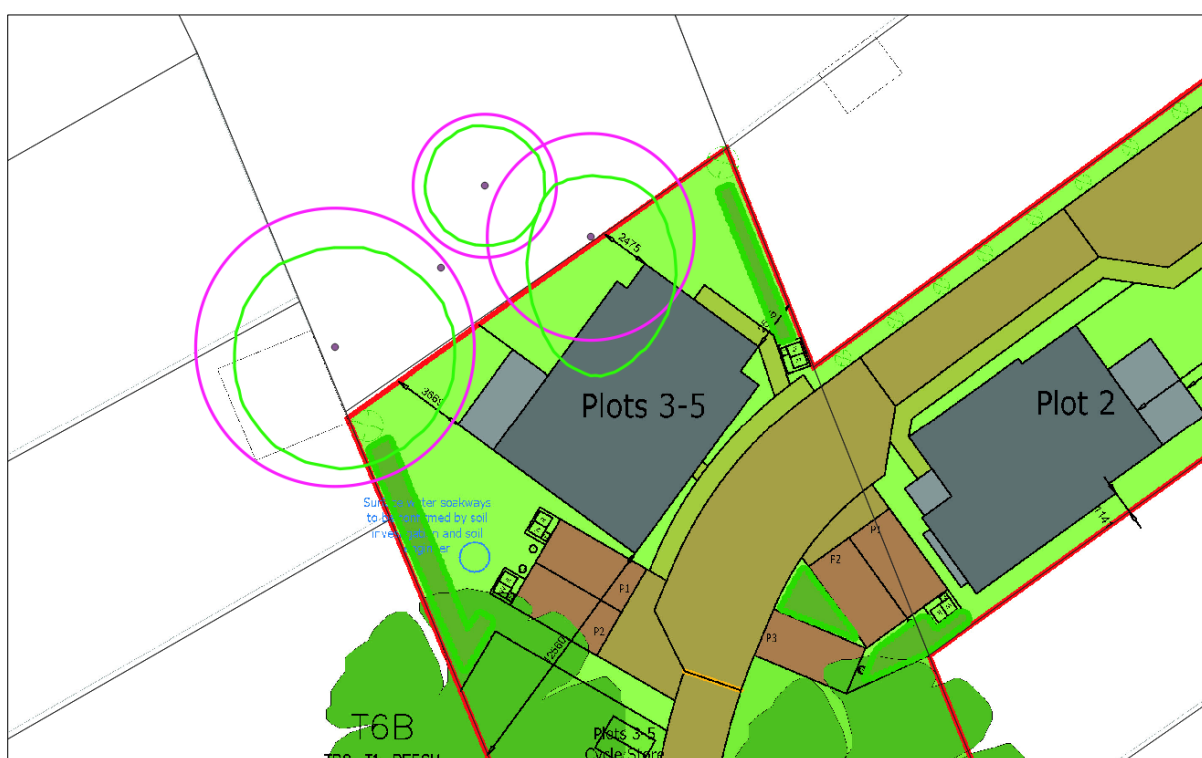
respected. The foundations for the proposed flats (Plots 3-5) would cut directly through the RPA of T2, and come extremely close to the RPA of T5. No protection / tree fencing is proposed for T5.



Tree constraints plan - detail, including Land Registry parcels



Proposed site plan - detail, including Land Registry parcels



Position, canopy and RPA of T5, T3, T2, T4 (dead tree - canopy and RPA not shown) superimposed on proposed site plan. T5, T3 and T2 will be retained by the owner.

### Trees omitted from survey

The arboricultural report states that "It was noted that there are other trees that are located on or adjacent to the land to the rear of 12 Claygate Lane, Hinchley Wood, Esher, KT10 0AQ but they have not been included within this report." Among the trees omitted are some fine trees in neighbouring gardens as well as boundary hedges. Some of these may have RPAs which extend onto the site. Roots of others are intertwined with those of trees on site slated for removal. No consideration is shown for the potential impact on those trees of the proposed clearance, new access road and new dwellings with very deep foundations. No consideration is shown for the impact of neighbours' trees and hedges on the amenity of the proposed dwellings (see points about outlook and daylighting below).

### **Life expectancy of all oak trees listed severely underestimated (given as '10+ years')**

The life expectancy of all trees bar a Tree of Heaven which is slated for removal, and the two beech trees protected by TPOs, is given as '10+' years (ie less than 20 years) with no rationale provided. This includes a number of 'early mature' to 'mature' oak trees identified in the report itself as being in 'good' physiological condition and 'fair' structural condition. *Quercus robur* can be expected to live for many hundreds of years. In the absence of any justification for the hugely reduced life expectancy noted here, it must be assumed that the assessment is flawed.

In contrast, the Tree of Heaven (T1) has a number of known defects, as noted in the Tree Survey Schedule, and yet is given a life expectancy of 20+ years. Again, this is a flawed assessment.

### **Four out of the six trees with a TPO wrongly classified as C**

The classification of trees in the arboricultural report is questionable. In particular, the classification of four healthy early mature to mature oak trees with a TPO as Category C casts doubt on all the evaluations made. It clearly contradicts the assessment made in EL:12/24 that these trees are of sufficient quality to merit the assignment of a tree protection order. In the report itself, these four trees are labelled as in 'good' physiological condition and 'fair' structural condition. There is no reason to consider that they are "unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories" (BS 5837:2012 Category C1 definition). They have considerable landscape value as part of a group, and also cultural value, looking back to their history in the grounds of The Woodlands (112 Manor Road North) – see p. 10 above. The historic nature of the woodland is evidenced by the 1871 Ordnance Survey map, and an aerial photo from Historic England's archives shows its notable character in 1946 [https://historicengland.org.uk/images-books/archive/collections/aerial-photos/record/RAF\\_106G\\_UK\\_1624\\_V\\_5099](https://historicengland.org.uk/images-books/archive/collections/aerial-photos/record/RAF_106G_UK_1624_V_5099). BS 5837:2012 advises that tree categories should be labelled as 1, 2 or 3 according to which subcategory applies - 'mainly arboricultural values', 'mainly landscape values', or 'mainly cultural values, including conservation'. This has not been done in this case.

The Category C classification given in the body of the report and the Tree Survey Schedule is also contradicted within the report itself. The Tree Constraints Plan (Appendix 3) and the Tree Protection Plan (Appendix 4) in the Arboricultural Report both show two of the TPO oaks, T21 and T19, classified as Category B.

As assessments of the four TPO oaks are unsound, the other assessments in the tree survey must also be called into question.

### **No dig surfacing proposed for RPAs inadequate for the anticipated traffic (service and emergency vehicles, as well as construction traffic)**

'No dig surfacing' is proposed over the RPAs of T6 and T25 to enable construction of the access road, with CCS to a depth of 100mm, adequate for cars, 4x4s and vans. However, this would not be adequate for larger service or emergency vehicles, or for construction traffic including heavy machinery and delivery vehicles. There is no evidence that the applicant has considered the impact of service, emergency or construction vehicles on the RPAs. The access road over the RPAs will need to be permeable - there is no evidence that the applicant has taken this into consideration elsewhere in the application.

### **Proportion of new permanent hard surfacing in RPAs exceeds 20%**

The calculation of the area of new permanent hard surfacing as a proportion of RPA areas is based on a site plan which does not accord with the final submitted site plan. In the final submitted plan, the addition of an extra parking space in the RPA of T25 increases the new hard surfacing by >12 sqm, which takes the proportion over the maximum 20% allowed for in BS 5837:2012.

### **Effects of mature trees on daylighting levels and amenity of future residents not considered**

Tree T21, an oak protected by TPO EL:12/24, grows approximately 6 metres from the proposed eastern elevation of Plots 6 and 7. The trunk, which has a diameter of ~40 cm, leans 30° to the west (ie towards the proposed houses) and only straightens from a height of 4 metres. A reduction of the canopy to the west of 2.5m is proposed. This may clear enough space for the dwellings to be built at its current growth status - however, the tree is already nearly twice the height of the proposed dwellings, and as it continues to grow, the canopy will again extend to overshadow bedroom rooflights and living room and study windows. Other proposed dwellings, as well as a large proportion of the amenity area / "communal gardens", will also be affected by heavy shading.

### **Recommendations for adequate foundations for buildings near retained trees not followed through**

While there is no mandatory distance between a house and an oak tree, the generally recommended distance is at least the height of the tree. Currently at 14m high, the 'early mature' oak T21 has potential for a long and healthy lifespan, with much more growth ahead. Oak trees are thirsty trees, and the effects of the continued growth of this specimen on the clay soil and concomitantly on the foundations of the proposed new dwellings do not bode well for the integrity and safety of the building nor the amenity of its residents. NHBC guidance, which does allow for building closer to a tree than would otherwise be advisable, provides tables of recommended foundation depths at varying distances according to the mature height of the tree, tree type and soil type. A foundation at 6m from an oak tree (mature height 20m, high water demand, on soil assumed to have high shrinkage potential) would need to be more than 2.5m deep, and engineer designed. Plots 6 and 7 are the worst positioned, but Plot 2 (near T25), Plot 3-5 (near T6) and Plot 8-9 (near T14 and T15) will also be vulnerable to soil shrinkage. The applicant has provided no evidence that they have considered the extra foundation requirements.

### **No account taken for heave alongside removed trees**

Removed trees and severed roots can result in heave. Foundations and drainage must be designed to take this into consideration, but no mention has been made of this issue in the arboricultural report or elsewhere in the application.

### **Recommendations for replacement planting not followed through - no landscape design provided and five proposed replacement trees not shown on submitted site plan**

The arboricultural report proposes replacement planting of five new trees at Extra Heavy Standard (12-14cm) that have the potential to grow to be large size trees. These are not shown on the submitted site plan, and no separate landscaping proposal has been submitted. The site plan does indicate a number of "new semi-mature trees" - however, these are shown with a canopy diameter of only 1.5m, which is very far from large size. The species suggested in the arboricultural report (London Plane, Sycamore, Wellingtonia or 'giant sequoia', Elm, and Lime) would all grow much larger than this - some perhaps 10 times larger.

### **Submitted site plan is inconsistent with arboricultural report**

The representation of retained trees on the submitted proposed site plan is inconsistent with the arboricultural report - the semi-mature oak identified as T5 in the TPO and T15 in the tree survey is not shown. Hedge indications do not match retained hedging shown on the tree protection plan, or other existing boundary hedging.



# 4. Flood risk and surface water management

## Policy context

### 💡 Core Strategy CS26

1. *Development must be located, designed and laid out to ensure that it is safe; the risk from flooding is minimised whilst **not increasing the risk of flooding elsewhere**; and that residual risks are safely managed.*
- ...
4. ***New developments will need to contain SuDS**, in line with the Council's Climate Neutral Development Checklist.*

## Issues

### The Flood Risk Assessment does not consider increased risk of flooding off site

The Flood Risk Assessment considers only flood risk on the site, and not the impact on the risk of flooding elsewhere. The drainage proposed is fed into over-subscribed water pipes that are already prone to flooding. Claygate Lane is at high risk of surface water flooding, as shown in DEFRA flood maps. The proposed 80% coverage of the site with impermeable surfacing, loss of trees and vegetation, on a low absorption soil type (London clay) could, especially given present climate change effects with heavier rainfall, cause water run off also into the back of the neighbouring gardens creating waterlogged areas which in turn could create damage to outbuildings, sheds and garden offices, as well as to trees and planting.

### Calculated greenfield runoff rate is an underestimate

A greenfield runoff rate has been calculated using the tool at [UKSuDS.com](https://www.uk-suDS.com). This tool estimates peak flow rate of runoff based on hydrological region and soil type. Guidance for this tool makes clear that it does not take into account the vegetated land characteristics (whether it is treed, grassland, farmed or otherwise landscaped) nor rainfall intensity. Trees and hedges increase water absorption, catch rainfall and slow down surface water run-off. These limitations of the tool will therefore result in under-prediction of runoff rates for this woodland site, especially during high intensity rainfall events which are becoming more frequent as a result of climate change. The tool is explicitly not designed to give an accurate assessment of the actual runoff rate from a site.

### Calculations illegible

It is worth noting that 'Appendix 3: Drainage Calculations' in the submitted Flood Risk Report is illegible.

### No details of SuDS measures provided

The proposed development results in 80% impermeable surfacing, replacing the current situation which is almost entirely permeable, and heavily treed and vegetated. The Flood Risk Report mentions swales, filtration strips and pervious pavements as possible SuDS measures - however, none of these are shown on the site plan and no further details are provided. Also mentioned are trees, of which 35-45 are proposed to be removed, and attenuation storage, for which, see below.

### Possible locations of attenuation storage unclear

Locations have been indicated on the proposed site plan for 'surface water soakways', which presumably is meant to refer to the attenuation storage suggested in the Flood Risk Report,

since soakaways are not effective on clay soil and are not advisable so close to buildings. At least one of these locations is within the RPA of T6 and is therefore not a possible location. The surface water drainage proposal put forward in the Flood Risk Report relies on including 300m<sup>3</sup> of attenuation storage. It is not clear how this might be achievable on such a cramped and constrained site.


# 5. Access and traffic

## Policy context

### Policy DM7

#### a. Access

- i. *The layout and siting of accesses should be acceptable in terms of amenity, capacity, safety, pollution, noise and visual impact.*
- ii. *Access to and from the highway should be safe and convenient for pedestrians, cyclists and motorists.*
- iii. **Provisions for loading, unloading and the turning of service vehicles are expected to be designed into the scheme ensuring highway and pedestrian safety.**
- iv. **The proposal should minimise the impact of vehicle and traffic nuisance, particularly in residential areas and other sensitive areas.**

 Policy DM8 of the Development Management Plan states that:

storage points for refuse and recycling are to be **accessible for collection vehicles as well as regular users.**

Detailed advice on access requirements is provided in the Environmental Care Team's [Guidance on the storage and collection of household waste](#).

 [Guidance on the storage and collection of household waste](#):

#### 5.1. Vehicle access

1.1.1. *The following criteria must be met for an access road:*

- ✓ **a minimum of four metres wide and high and free from overhanging trees and buildings**
- ✓ *designed to eliminate reversing (arranging for the collection vehicle to continue in a forward direction)*
- ✓ *offer adequate space for turning where the vehicle is unable to safely enter and exit the site without reversing (achieved by showing a tracked route/swept path through the development)*
- ✓ **have suitable foundations and surfaces to withstand the maximum weight of the vehicle (generally 26T gross weight, 14.8T axle loading)**
- ✓ *have heavy duty manhole covers, gully gratings etc.*
- ✓ *designed to ensure reasonable convenience for the collection vehicle.*

#### 5.2. Reversing vehicles

*Generally, collection vehicles should not be expected to reverse into a development from a busy main road. Exceptions may be made where the vehicle can be reversed into the development over a distance not exceeding 12 metres to a point within 10 metres of where the bin/s are presented for collection. In all such instances the road should be designed to ensure the vehicle does not encroach on the footway.*

#### 5.3. Turning space

*Adequate turning space should be provided if the vehicle is expected to access the development. **For tracking purposes, the dimensions of the current collection vehicles are 10.6 metres long and 3 metres wide. The minimum turning circles are 19.9 metres (kerb to kerb) and 21.6 metres (between walls).***

## Issues

### **Access road width and turning space not adequate for service vehicles**

The proposal is for a cul de sac development served by a new access road that for most of its length has a width of only 3 metres. Plot 2 is 45 metres from the junction with the public highway, and the front doors to Plots 8 and 9, at the end of the road, are nearly 140 metres from the public highway. The space provided at the end of the access road only accommodates a turning circle of 11 metres. The swept path analysis provided in the applicant's Transport Statement assumes a refuse vehicle length of 9.86m and width of 2.45m, but the current refuse collection vehicles, as stated in the document referenced above, are 10.6m long and 3m wide. Even with the narrower and shorter vehicle, the multi-point turn shown in the swept path analysis takes parts of the vehicle off the road surfacing and encroaches on landscaping and parking areas, which may present obstacles to turning including cars, planting etc which are vulnerable to damage.

The Transport Statement puts forward the argument that a minimum width of 3m is allowed for in Surrey County Council's Design Guide Technical Appendix - however, the allowance in that document is for narrowing 'at a point in order to provide speed control or to solve a specific site problem, such as to preserve an existing tree'. The proposed access road has a width of 3m for nearly half its length, not at a point, and the narrowing is necessitated by the proposed layout and positioning of new dwellings - ie the 'site problems' are caused by the proposal. Surrey County Council's Healthy Streets for Surrey recommends a minimum carriageway width of 4.1m.

### **Refuse storage locations inaccessible when cars are parked**

A number of refuse storage locations are sited at the back of parking spaces, with no pathway provided around parked cars, making wheeled bins inaccessible for collection (affecting plots 1-5 and plot 9).

The proposal therefore does not meet the criteria for access for service vehicles and refuse collection and does not accord with policies DM7 and DM8.

### **Access road width and turning space not adequate for emergency vehicles**

The access road would also fail to meet the Approved Document Part B guidance for access for fire service vehicles, namely a minimum road width of 3.7m and minimum turning circle of 16m. Notwithstanding the attempt to justify a narrower road width and smaller turning space brought forward in the swept path analysis, the Approved Document guidance implies that a pumping appliance would have to remain on the public highway, and would therefore be able to get no closer than 150 metres from the furthest point of the furthest dwelling (plots 8 and 9). If sprinklers were to be provided, this may mitigate the risk sufficiently to vary the distance requirement somewhat - however, more than three times the distance specified in Part B is excessive and unjustified in terms of its impact on firefighters, and would not be fully compensated for by alternative measures, such as sprinklers.

The lack of adequate access for service and emergency vehicles is therefore in contravention of paragraph 112 d) of the NPPF (2023).

Surrey Fire and Rescue is not on the list of consultees for this application, but should be.

### **Proposed 'no dig surfacing' inadequate for weight of service and emergency vehicles**

Furthermore, the proposed no dig surfacing over RPAs (see under 'Arboricultural Report') is inadequate to support the weight of service and emergency vehicles.

Given the site constraints, in particular the TPOs, widening of the proposed access road and turning circle while retaining the proposed density is not feasible. Even were it possible, it would

exacerbate the already problematic increase in hard surfacing and loss of biodiversity. These current proposed hard surfaces take up 80% of the total area of the site.

#### **Proposed double yellow lines shown on the wrong side of the road**

Surrey County Council has required double yellow lines to be provided either side of the access "to prevent vehicles obstructing visibility". The applicant has shown the double yellow lines on the east side of Claygate Lane, opposite the access, rather than west side. As shown, they will not protect the visibility splays.

While this is a matter to be resolved directly with SCC via an S278 agreement, the error is a further indication that the submitted Transport Statement is not robust.

#### **Loss of parking spaces on Claygate Lane will increase parking pressure on surrounding roads**

A number of on street parking spaces on Claygate Lane are proposed to be removed. The Transport Statement gives the number as three, but shows 19.2m of additional double yellow lines, which implies the loss of four parking spaces (requiring 5m each). The parking demand created by the two schools and the church on Claygate Lane, on top of residents' needs, already has a negative impact on Claygate Lane, Cumberland Drive and the surrounding roads. The loss of spaces will exacerbate the situation.

#### **Impact on school and road safety at pick up and drop off times**

Teachers at Hinchley Wood School on Claygate Lane are currently obliged to act as traffic marshalls at pick up and drop off times. Traffic management on Claygate Lane at those times is therefore clearly already inadequate, and the proposed new access road and additional traffic can only exacerbate the situation.

#### **Proposed design of entrance to access road obstructs exit splay for neighbouring property**

The Stage 1 Road Safety Audit identified a safety issue arising from the adjacency of the proposed new access, with associated tactile paving and kerblines, to the driveway at no. 10 Claygate Lane, and advised the access road entrance be moved further south. The applicant has not resolved the concerns; the submitted design situates pedestrian tactile paving between driveway and new access road, and a grassed kerblines within the path of a vehicle entering and exiting the driveway of no. 10 from/to the southbound direction. The applicant further responds that as such vehicle movements would be 'sporadic' the risk would be 'minimal'. Again, this claim undermines the sense and robustness of the submitted Transport Statement - the residents of no. 10 can surely be expected to drive in and out of their driveway rather on a 'regular' basis.

As with the double yellow lines, this would be a matter for resolution with SCC and via further Road Safety Audits. However, the applicant's failure to resolve the problem at this stage suggests that the design and concept of the proposed site layout and access is fundamentally flawed.

## 6. Application flaws

The application does not provide enough detail to enable residents to make fully informed comments. In particular, no details of boundary treatments have been submitted, so residents of a large number of surrounding properties whose gardens adjoin the site can't fully assess the impact on their amenity. To further confuse residents, many hedges, planting and trees sit on or close to the boundary and are considered by those residents to be on their land. Many of these are not shown on the proposed plan, suggesting they would be taken out.

No biodiversity statement has been submitted, presumably because it would be impossible for the applicant to demonstrate no net loss of biodiversity, nor has an ecological appraisal been submitted. The extent of tree removal and habitat clearance, and the imposition of hard surfaces (80% of the site) along with necessary lighting, means the current rich biodiversity on the site will be all but eliminated. No landscaping plan has been submitted.

No information about the external lighting scheme has been submitted. No daylighting analysis of the proposed homes has been submitted. Consultation with the local community prior to the application was limited to a letter sent to some but not all residents affected, with no further follow up communication or response.

Further, significant flaws have been identified in the relation to the submitted Arboricultural Report, Transport Statement, Bat Survey, Flood Risk Report and/or the implementation (or lack of implementation) of recommendations contained in them.

The Design and Access statement contains errors, referring to incorrect or out of date policies (NPPF 2018 not 2023, the wrong Design and Character Companion Guide), and is vague and sketchy on details. It has not provided justification for its stated claims that the proposed development will comply with relevant policies. Plans for the dwellings contain errors, including a first floor window overlooking the garden of 19 Cumberland Drive shown in plan but not in elevation (plot 9).

# Conclusion

While it may be possible to resolve a number of the technical issues identified above through minor amendments to the proposal, submission of further evidence, and/or conditions imposed on development, other issues would require a more significant redesign, in particular:

- Widening and moving the access road, to satisfy the requirements of highway safety, refuse and service vehicles, and fire and emergency vehicles
- Relocating the three flats (Plots 3-5) to protect the RPA of T2
- Improving the standard of design and amenity for future residents of proposed dwellings

There are also issues which are irresolvable, namely the loss of historic woodland and the harm to the character of the area.

While the proposal brings forward some needed housing, it does not meet the target density. The applicant's argument that the target density could be considered to be met if the area of 'undevelopable' land (ie that covered by RPAs) is not counted, as well as their submission that the provision of an appropriate affordable housing contribution is not financially viable, points towards a conclusion that this site is not a viable location for policy compliant development to take place – particularly bearing in mind that the area of 'undevelopable' land is underestimated because not all RPAs have been included.

The nature of the site is such that any development proposal will cause harm. The quantity of unresolved issues at this stage is symptomatic of a fundamentally flawed attempt to force a development onto this severely constrained greenfield land, and calls into question the overall principle of development on this site.