

Planning Committee

03 March 20201



Application No.	20/00736/FUL
Site Address	96 Cavendish Road, Sunbury On Thames, TW16 7PL
Applicant	Mr Kuldip Deol
Proposal	The erection of a two-storey detached building comprising 2 x 1 bedroom flats.
Case Officer	Matthew Churchill
Ward	Sunbury Common
Called-in	The application has been called in by Councillor R. Dunn as a result of concerns relating to overlooking and loss of privacy, parking provision, loss of light and flooding.

Application Dates	Valid:02.10.2020	Expiry:27.11.2020	Target: Extension of time agreed.
Executive Summary	<p>The application is proposing the erection of a two storey detached building that would comprise 2 x 1 bedroom flats. The new units would be located in the rear garden of no.96 and no.96A Cavendish Road and would be accessed through Bracken Close. This would result in the subdivision of the plot. The new units would be served by two parking spaces and would incorporate a garden area at the rear. A further garden area would also be maintained at the rear of the existing units.</p> <p>The new units would have a 'backland' style layout and would be situated to the rear of existing properties in Cavendish Road. They would be accessed via a gap in the Cavendish Road street frontage, through Bracken Close. As there are already established dwellings located to the rear of Bracken Close, this layout is considered to be acceptable. A similar layout also exists at the rear of Chestnut Close to the west.</p> <p>The existing property at 96 Cavendish Road contains two flatted units. The addition of two further flatted units is therefore considered to be acceptable in principle, subject to detailed design and amenity considerations and assessment against all other relevant planning policies and guidance.</p> <p>It is considered that the proposal would have an acceptable impact upon the character of the area. The new building would be set in 1 metre from each flank boundary and would incorporate a hipped roof design that would measure 8.119 metres in height at the ridge.</p>		

	<p>The proposal is considered to have an acceptable impact upon the amenity of all neighbouring and adjoining properties. The proposed building would project approximately 4 metres beyond the rear elevation of no.6 Bracken Close. When measured from the ground floor window in the rear elevation of no.6, the building would not breach the Council's 45° vertical or horizontal guides as set out in the Council's SPD in on the Design of Residential Extensions and New Residential Development (April 2011). The Council has also calculated that the dwelling would be situated approximately 17 metres beyond the rear elevation of no.98 Cavendish Road. Additionally, there is considered to be an acceptable 'front to back' separation distance between the proposed building and the existing building at no.96 Cavendish Road.</p> <p>The development would incorporate two car parking spaces. This would fall 0.5 spaces short of the Council's 2.5 parking space requirement for a development of this size as set out in the parking standards SPD. On balance, this is considered to be acceptable.</p> <p>The rear of the application site is situated in a 20 metre buffer zone around a main river (Feltham Brook) and the site is also situated in the 1 in 1000 year flood event area. The Council has consulted the Environment Agency who has raised no objections.</p> <p>It is considered the proposed development would have an acceptable impact upon the character of the area, the amenity of neighbouring and adjoining dwellings, parking provision and the flood event area.</p>
Recommended Decision	Approve the application subject to conditions set out at Paragraph 8 of the Report.

MAIN REPORT

1. Development Plan

- 1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:



2. Relevant Planning History

- 2.1 The site has the following planning history:

SUN/OUT/8028	Erection of house.	Grant Conditional 05.11.1964
06/00062/CPD	Certificate of Lawful Development for proposed roof extensions to facilitate habitable accommodation.	Refused 13.04.2006
06/00447/CPD	Certificate of Lawful Development for proposed roof alterations to facilitate habitable accommodation in the roof space.	Granted 05.07.2006
10/00107/FUL	Retrospective application for the Change of Use from a single dwelling to two flats (1 no. two bed flat and 1 no. three bed flat).	Grant Conditional 01.04.2010

3. Description of Current Proposal

- 3.1 The application site is occupied by a two-storey detached property situated on the northern side of Cavendish Road in Sunbury On Thames. The existing property has been subdivided into two flats (planning permission 10/00107/FUL), no.96 and no.96A, and occupies a relatively long rectangular plot.
- 3.2 The site is located within the 1 in 1000 year flood event area (flood zone 2) and the rear of the site is situated within a 20 metre buffer zone around a main river (Feltham Brook). The eastern site boundary adjoins Bracken Close, which is a private road containing 3 dwellings that front onto Cavendish Road and 3 further dwellings at the rear which front onto Bracken Close. The properties in Bracken Close were constructed in the 1990s.
- 3.3 The street scene of Cavendish Road is primarily occupied by two storey terraced dwellings that are similar in design and appearance. However, detached dwellings are also present and there are examples of 'backland'

style developments, which are accessed through a gap in the street frontage, including at Bracken Close and Chestnut Close.

- 3.4 The application is proposing the construction of a two-storey building in the rear garden of 96 Cavendish Road, which would comprise 2 x 1 bedroom flats. The scheme also proposes the subdivision of the plot and the proposed units would share a rear garden space that would measure approximately 81m² in area. Some 70m² of garden area would be retained for the existing units at 96 and 96A Cavendish Road.
- 3.5 The proposed dwellings would be accessed from Bracken Close through a new access to be created in the eastern boundary wall. Bracken Close is a private road and has been included within the red site boundary line as future occupants would be required to use the Close to access the public highway. The applicant has also completed Certificate B confirming that they have served notice on anyone with an interest in this land.
- 3.6 The proposed units would be served by 2 off-street parking spaces which would be located in front of the dwelling. There would be a distance of approximately 18.7 metres between the host property and the front of the proposed building.

4. Consultations

- 4.1 The following table shows those bodies consulted and their response:

Consultee	Comment
County Highway Authority	No objections.
Environment Agency	Recommends an informative.
Environmental Health	Recommends conditions.
Neighbourhood Services	No objections.

5. Public Consultation

- 5.1 The Council has received 13 letters of representation, including 1 letter from A2 Dominion, which object to the proposal on the following grounds:
- There are not enough parking spaces.
 - Occupants will be required to use Bracken Close to enter the site and A2 Dominion has not granted access rights over this private road (Officer note: Bracken Close has been included in the red site boundary and the applicant has completed Certificate B stating they have served notice on anyone with an interest in this land. Access rights would be a legal matter falling outside of planning legislation).
 - Highway safety concerns in Bracken Close.
 - Concerns with overshadowing and a loss of sunlight.
 - Emergency Services may not be able to access the new dwellings.

- Extensions are not shown in the site location plan (Officer note: The LPA requested that the applicant show existing extension to no.96 Cavendish Road on the plans).
- There will be a loss of privacy and outlook to neighbouring properties.
- The building would have an overbearing impact.
- The development would impact sunlight reaching a neighbouring garden.
- Concerns over security and crime prevention.
- A car would not be able to leave and enter the site in a forward gear. (Officer note: A tracking plan has been submitted to demonstrate that this is possible).
- The proposal would cause noise pollution.
- Concerns over flood risks.
- The development could impact nearby trees.
- Concerns over cycle and bin storage.
- Details should be provided relating to boundary treatments.
- Cavendish Road is already overcrowded, and the scheme would represent overdevelopment.
- Concerns over drainage and water supplies.
- A requirement for a Construction Management Plan should be considered (Officer note: An informative is recommended).
- The building does not follow the building line and should be brought forward.
- Concerns about fire compartmentalisation and escape from the upper floor flat (Officer note: This is considered to be a matter for building regulations).

The Council has also received a petition with 35 signatories objecting to the proposal on the grounds of the effects of the demands of additional road users and parking demand and unwanted disruption.

6. Planning Issues

- Principle of Development
- Need for Housing
- Design and Appearance
- Density
- Future Occupiers
- Impact on Existing Residential Dwellings.
- Parking
- Transportation Issues

- Flooding
- Equality Act
- Human Rights Act
- Local Finance Considerations

7. Planning Considerations

Principle of Development

- 7.1 Policy HO1 encourages housing development, including redevelopment, infill, conversion of existing dwellings and the change of use of existing buildings to housing, on all sites suitable for that purpose taking into account other policy objectives.
- 7.2 The application proposes the construction of 2 flatted units in the rear garden of no.96 and no.96A Cavendish Road, which would make a contribution towards the Council's 5-year housing supply. The proposed units would be accessed through an established private road, Bracken Close, which is situated in a gap in the Cavendish Road street frontage. The development would have 'backland' style layout, as the proposed units would be situated to the rear of dwellings fronting onto Cavendish Road. Given the similar 'backland' style layout at the rear of Bracken Close, this is considered to be acceptable in principle.
- 7.3 The application site also contains two existing flatted units, no.96 and no.96A Cavendish Road. The principle of a two storey flatted development is therefore considered to be acceptable in this location, subject to detailed design and amenity considerations, as well as assessment against all further material planning considerations. These are considered below.

Housing Supply

- 7.4 When considering planning applications for housing, local planning authorities should have regard to the government's requirement that they boost significantly the supply of housing and meet the full objectively assessed need for market and affordable housing in their housing area so far as is consistent policies set out in the National Planning Policy Framework (NPPF) 2019.
- 7.5 The Council has embarked on a review of its Local Plan and acknowledges that the housing target in its Core Strategy and Policies DPD February 2009 of 166 dwellings per annum is more than five years old and therefore the five year housing land supply should be measured against the area's local housing need calculated using the Government's standard method. The standard method for calculating housing need is based on the 2014 household growth projections and local affordability. This equates to a need of 606 dwellings per annum in Spelthorne. This figure forms the basis for calculating the five-year supply of deliverable sites.
- 7.6 The NPPF requires a local authority to demonstrate a full five year supply of deliverable sites at all times. For this reason the base date for this

assessment is the start of the current year 1 April 2020, but the full five year time period runs from the end of the current year, that is, 1 April 2021 to 31 March 2026. The 20% buffer will therefore be applied to this full period. National guidance sets out that the buffer should comprise sites moved forward from later in the plan period. A 20% buffer applied to 606 results in a figure of 727 dwellings per annum, or 3636 over five years.

- 7.7 In using the objectively assessed need figure of 727 as the starting point for the calculation of a five year supply it must be borne in mind that this does not represent a target as it is based on unconstrained need. Through the Local Plan review, the Borough's housing supply will be assessed in light of the Borough's constraints, which will be used to consider options for meeting need. The Council has now published its Strategic Land Availability Assessment (SLAA) which identifies potential sites for future housing development over the plan period
- 7.8 The sites identified in the SLAA as being deliverable within the first five years have been used as the basis for a revised five year housing land supply figure. Spelthorne has identified sites to deliver approximately 3518 dwellings in the five year period.
- 7.9 The effect of this increased requirement with the application of a 20% buffer is that the identified sites only represent a 4.8 year supply and accordingly the Council cannot at present demonstrate a five year supply of deliverable housing sites. There is, therefore a presumption in favour of sustainable development.
- 7.10 Government guidance (NPPF para 73) requires the application of a 20% buffer "where there has been significant under delivery of housing over the previous three years". In addition, guidance on the Housing Delivery Test indicates that where housing delivery falls below 85%, a buffer of 20% should be applied to the local authority's five year land supply. The Housing Delivery Test result for Spelthorne Borough Council was published by the Secretary of State in January 2021, with a score of 50%. This means that less housing has been delivered when compared to need over the previous three years. As a consequence, there is a presumption in favour of development because the test score of 50% is less than the 75% specified in the regulations. The figure of 50% compares with 60% last year and 63% in 2019. The Council's Housing Delivery Test Action Plan will be updated to reflect this. The current action plan positively responds to the challenge of increasing its housing delivery and sets out actions to improve delivery within the Borough.
- 7.11 As a result, current decisions on planning applications for housing development need to be based on the 'tilted balance' approach set out in paragraph 11 of the NPPF (2019). This requires that planning permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole'.

Design, Height & Appearance

- 7.12 Policy EN1 of the CS&P DPD, states that the Council will require a high standard in the design and layout of new development. The policy further states that development proposals should demonstrate that they will create buildings and places that are attractive with their own distinct identity, and should make a positive contribution to the street scene and character of the area in which they are situated, paying due regard to the scale, height, layout, materials and other characteristics of adjoining buildings and land.
- 7.13 The NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The framework further states that planning decisions should ensure that developments function well and add to the overall quality of an area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to the local character and history, including the surrounding built environment, whilst not preventing or discouraging appropriate innovation or change.
- 7.14 The street scene of Cavendish Road is predominately occupied by two storey terraced dwellings, which are similar in style and design. There are also a number of detached dwellings, most notably at no.100 and no.98 Cavendish Road. Additionally, there are a number of other dwellings within the surrounding locality, which are accessed through a gap in the Cavendish Road street frontage, including dwellings at the rear of Bracken Close, which adjoins the site, as well as dwellings at the rear of Chestnut Close to the west. The application site also contains two flatted units in a detached building, which were granted planning permission in 2010 (10/00107/FUL).
- 7.15 The layout and overall design of the proposed development is considered to be in keeping with the character of the surrounding area. The application property contains an existing two storey flatted development, albeit with habitable accommodation in the roof space. The creation of a further two storey flatted development is therefore considered to be in keeping with the character of surrounding properties.
- 7.16 The 'backland' style layout of the new units, which would be situated to the rear of dwellings fronting Cavendish Road, has also already been established through the layout of Bracken Close and is considered to have an acceptable impact upon the character of the area.
- 7.17 The Council's Supplementary Planning Document (SPD) on the Design of Residential Extensions and New Residential Development (April 2011), states that building plots must be of sufficient size to provide garden space appropriate to the size of the development proposed. The SPD further states that plots should normally be of similar size and shape to other plots in the street.
- 7.18 The Council's guidelines state that for flats, where amenity space is shared, a minimum amenity (garden) area of at least 35m² per unit should be provided to the first 5 units in a development. The application proposes a garden area of 81m² for the new units. This would be in excess of the Council's guidelines, which would require a minimum shared garden space of 70m² for a development of this size.

- 7.19 A garden area of approximately 70m² would also be maintained at the rear of the existing properties (no.96 and no.96A Cavendish Road), which would meet the Council's guidelines. The overall plot size of the new units is therefore considered to be acceptable.
- 7.20 The proposed building would be set in 1 metre from the site boundary as encouraged in the Council's design guidance and is not considered to have a terracing effect upon neighbouring dwellings. The development would incorporate a hipped roof that would measure a height at the ridge of 8.119 metres. This is considered to be acceptable in the context of the design and scale of neighbouring dwellings.
- 7.21 There would be a 'back to front' separation distance of 18.7 metres between the proposed building and no.96 and no.96A Cavendish Road. This would fall 2.3 metres below the Council's guideline 21 metre 'back to front' guidance. However, this is largely as a result of the single storey rear extension to no.96, and at first floor level there would be a 'back to front' separation distance of approximately 22.5 metres, which is considered to be acceptable.
- 7.22 It is acknowledged that the new building would not directly front onto Bracken Close and would be without any form of street frontage, instead being accessed from an opening in the eastern boundary wall. This is considered to be acceptable in this instance, particularly as it is noted that properties at the rear of Chestnut Close in close proximity to the site, also do not contain any street frontages and instead front onto a grass area.
- 7.23 The proposed materials would comprise brick, roof tiles, and UPVC windows and doors. It is considered that such materials would be acceptable in this location. However, it is recommended that further details of the materials are secured by condition. It is noted that the Council has received a letter of representation raising concerns over the proposed boundary treatments. It is recommended that such details are also secured by condition.
- 7.24 Overall, the character and appearance of the development is considered to have an acceptable impact upon the character of the area. The construction of new dwellings at the rear of the site would not be unduly out of character given the layout of nearby properties. Additionally, as the host building contains two flatted units, it is also considered that flatted development would be in-keeping with the surrounding street scene. The detailed design of the proposal is also considered to be acceptable from a design perspective and as such the proposal is considered to be in accordance with policy EN1 and the NPPF in design terms.

Housing Density

- 7.25 Policy HO5 specifies densities for sites within existing residential areas that are characteristic of family housing rather than flats, for which new development should generally be in the range of 35 to 55 dwellings per hectare. In higher density residential areas, including those characterised by a significant proportion of flats, new development should generally be in the range of 40 to 75 dwellings per hectare. These represent broad guidelines,

and the development will also be considered against Policy EN1 on design particularly in terms of character of the area and whether the development is in an accessible location.

- 7.26 In this instance the development would have a density of approximately 61 dwellings per hectare. Whilst surrounding dwellings are largely characteristic of family housing, the host property contains two existing flatted units. The development is considered to have an acceptable impact upon the character of the area. The proposed density is therefore considered to be satisfactory.

Future Occupiers

- 7.27 The nationally described Technical Housing Standards (THS) (March 2015) state that a 2 person, 1 bedroom dwelling set over a single storey, should contain a minimum internal floor area of at least 50m². This minimum requirement is also reflected in the Council's SPD on design.
- 7.28 The unit proposed on the ground floor would incorporate a floor area measuring 52.2m². The upper floor unit would contain an internal floor area of 50.5m². As both the units would be in adherence to the THS and SPD minimum requirements an acceptable level of amenity is considered to be provided to future occupants. The proposed layout and level of outlook is also considered to be acceptable.
- 7.29 The proposed amenity (garden) area of some 81m² would be in adherence to the Council's 35m² garden area requirements for each unit and is also considered to provide an acceptable level of amenity.

Impact Upon Existing Dwellings

- 7.30 Policy EN1 of the CS&P DPD, states that the Council will require proposals for new development to demonstrate that they will achieve a satisfactory relationship to adjoining properties avoiding significant harmful impacts in terms of loss of privacy, daylight or sunlight or overbearing effect due to bulk proximity or outlook.
- 7.31 The proposed building would project approximately 4 metres beyond the rear elevation of no.6 Bracken Close. It would measure a height of 5.52 metres to the eaves, a height of 8.119 metres to the ridge and would be set in 1 metre from the boundary. It is evident that no.6 Bracken Close contains ground floor window in the rear elevation. When measured from the centre of this window, it is not considered that the Council's 45° vertical or horizontal guides would be breached, which are designed to ensure that the positions of two storey side extensions or new dwellings to either side of a property, do not lead to an unacceptable loss of light.
- 7.32 It is noted that no.6 Bracken Close also contains a high-level window in the western flank elevation, which appeared to be at first floor level and is understood to serve a stairway. Given the sitting and height of this window, it is considered the proposal would have an acceptable impact. The occupiers of this property would experience some impacts as a result of the development. The Council's SPD on design at paragraph 3.6, states that

most developments will have some impacts on neighbours. The aim should be to ensure that the amenity of neighbouring occupiers is not significantly harmed. In this instance, as the 45° guidance is not considered to be breached from the ground floor rear window, whilst there would be some impacts, the impacts are considered to be acceptable.

- 7.33 It is not considered that the proposal would give rise unacceptable opportunities for overlooking into no.6 Bracken Close as no first floor windows are proposed in the eastern flank elevation. A condition is also recommended to be attached to the decision notice, preventing the insertion of any first floor windows within either of the flank elevations, without permission of the Local Planning Authority.
- 7.34 It is further considered that the proposal would have an acceptable impact upon the amenity of the occupiers of no.98 Cavendish Road. This property contains a conservatory at the rear. The Council has calculated that the proposed building would be situated approximately 17 metres beyond the rear of this conservatory. At such a distance, it is not considered that the proposal would have an overbearing impact upon the occupiers of this dwelling.
- 7.35 In regards to privacy and overlooking, whilst there would be two first floor windows contained within the southern elevation of the new building, these would be set at an oblique angle to the garden of no.98 Cavendish Road and are considered to have a satisfactory impact upon privacy. The proposal is also considered to have an acceptable impact upon the light entering this property. It is noted that the two car parking spaces would be situated alongside the boundary of no.98. There would be some impact by the occasional movement of two cars in this area, although this is considered to be to an acceptable level and this would not be an uncommon relationship.
- 7.36 The proposal is further considered to have an acceptable impact upon the occupiers of no.96 and no.96A Cavendish Road. There would be a distance of approximately 18.7 metres between the rear extension of this property and the front elevation of the proposed building. At such a distance the proposal is considered to have an acceptable impact upon light and would not breach the Council's 25° Guide. Additionally, the proposal is not considered to give rise to an overbearing impact upon no.69 and no.69A.
- 7.37 The first floor windows in the southern elevation of the proposed building would be approximately 12 metres from the rear garden of no.96 and no.96A. At such a distance the proposal meets the distance set out in the Council's SPD. The proposal is also considered to have an acceptable impact upon the amenity of the occupiers of all further properties in the wider area.
- 7.38 It is acknowledged that the Council has received letters of representation raising concerns over the impact upon outlook, overlooking and privacy, overshadowing and an overbearing impact. For the reasons highlighted above, it is considered that the proposal would have a satisfactory impact upon amenity.

Parking & Highways

- 7.39 Policy CC2 of the CS&P DPD states that the Council will seek more sustainable travel patterns by only permitting traffic generating development where it is or can be made compatible with transport infrastructure in the area taking into account amongst other things, access and egress to the public highway and highway safety. Policy CC3 states that the Council will require appropriate provision to be made for off street parking in accordance with its parking standards.
- 7.40 The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.41 The Council's Parking Standards SPD states that a 1 bedroom dwelling should be provided with a minimum of 1.25 off-street parking spaces. On this basis the Council would normally expect a development of this size to be provided with 2.5 spaces. The development proposes 2 off-street parking spaces at the front of the site, a shortfall of 0.5 spaces (rounded up to one space) when considered against the Parking Standards. It is not considered that an objection could be reasonably sustained against a 0.5 space shortfall.
- 7.42 The Council also consulted the County Highway Authority (CHA), which noted that Bracken Close is a private road and therefore falls outside of the CHA's jurisdiction. The CHA reviewed the wider impact of the development on the public highway (excluding Bracken Close) and considered that it would not have a material impact upon the safety and operation of the highway.
- 7.43 In terms of the impact upon the safety of Bracken Close, the Council requested a vehicle tracking plan from the applicant to demonstrate that it is possible to leave an enter the site in a forward gear. This has been submitted and demonstrates that it would be possible.
- 7.44 It is acknowledged that the Council has received letters of representation and a petition with 35 signatories, which object to the proposal as a result of the level of parking provision and the impact upon highway safety. For the reasons highlighted above, the proposal is considered to have an acceptable impact upon the highway and would provide a satisfactory level of off-street parking provision.

Flooding

- 7.45 The application site is situated in the 1 in 1000 year flood event area (flood zone 2) and within a 20 metre buffer zone around a main river (Feltham Brook).
- 7.46 The Council's SPD on Flooding (July 2012) and the Planning Practice Guidance (PPG) both list new dwellings as more vulnerable uses that are appropriate uses in Flood Zone 2. The Local Planning Authority has consulted the Environment Agency, which referred the Council to its Flood Risk Standing Advice. It is considered that the proposal will not have an adverse impact upon the flood area provided that it adheres to the conditions

recommended by the Environment Agency in their standing advice which are recommended to be attached to the decision notice.

- 7.47 It is considered that it is possible to provide a dry means of escape away from the site outside of the 1% annual exceedance probability.
- 7.48 The Council also consulted the Environment Agency (EA) as the site is situated within a 20 metre buffer zone around a main river (Feltham Brook). The EA advised that the applicant may be required to secure an Environmental Permit to undertake the works. It is recommended that this is drawn to the applicant's attention in decision notice as an informative.
- 7.49 As a dwelling house, which constitutes a more vulnerable use, is appropriate in flood zone 2, as long as the applicant complies with the two flooding conditions recommended in the Environment Agency's Standing Advice, which are recommended to be attached to the decision notice, the proposal is considered to be in adherence to the objectives of policy LO1 which seeks to reduce flood risk and its adverse effects on people and property in Spelthorne.

Other Matters

- 7.50 A number of mature trees are located within close proximity to the site. As such the Council's Tree Officer undertook a site visit. The Officer considered that there would be no adverse impacts upon surrounding trees as a result of the existing on site conditions including boundary walls and therefore offered no objections on tree grounds.
- 7.51 The Council's Head of Neighbourhood Services was consulted in regards to refuse collection which would be kerbside from Bracken Close on collection days. There is no objection to this.
- 7.52 The design and access statement advises that with respect to sustainability, the development will incorporate solar panels. In accordance with policy CC1, it is recommended that a condition is attached to the decision notice to secure at least 10% of the developments energy from renewable sources.
- 7.53 In total the Council has received 13 letters of representation as well as a 35 signatory petition. Of the concerns not already covered in this report, it is not considered that an objection could reasonably be sustained on the grounds of the impact upon security.

Equalities Act 2010

- 7.54 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.55 The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.
- 7.56 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.

Human Rights Act 1998

- 7.57 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.58 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.59 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.60 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Finance Considerations

- 7.61 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not.

- 7.62 In consideration of the of S155 of the Housing and Planning Act 2016, the proposal is CIL chargeable development based on a rate of £140 per m² metres of net additional gross floor space, amounting to approximately £18,486. This is a material consideration in the determination of this planning application. The proposal will also generate a New Homes Bonus and Council Tax payments which are not material considerations in the determination of this proposal

Conclusion

- 7.63 The application proposes a two-storey flatted development in a 'backland' style layout at the rear of an existing property in Cavendish Road, which would contribute 2 additional dwellings to the Council's 5 year housing supply. As two storey flatted developments and this pattern of development are already present in the surrounding locality, it is considered that the proposal would not be unduly out of character.
- 7.64 The detailed design, scale and of the building is considered to have an acceptable impact upon the character of the area. Whilst the proposal would project 4 metres beyond the rear elevation of no.6 Bracken Close and would have some impact upon this property, the Council's 45° vertical and horizontal guides would not be breached and it is considered that this impact would be acceptable. It is also considered that the proposal would have an acceptable impact upon the occupiers of no. 96, 96A and 98 Cavendish Road, and all other properties in the surrounding area.
- 7.65 The proposal is also considered to provide a satisfactory level of parking provision and would have an acceptable impact upon the flood zone. The proposal is therefore considered to be in accordance with Policies EN1, LO1, HO1, HO5, CC3 and CC2 and is recommended for approval.

8. Recommendation

- 8.1 GRANT subject to the following conditions:

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

Reason:- This condition is required by Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans, PL/VP/2378-01 Revision A, PL/VP/2378-02 Revision A, PL/VP/2378-03 Revision A, (Received 13.01.2021) PL/VP/2378-00 Revision C, PL/VP/2378-04 Revision A (Received 16.02.2021)

Reason:- For the avoidance of doubt and to ensure the development is completed as approved.

3. No development above damp course level shall take place until details of the materials to be used for the external surfaces of the building(s) and

surface material for parking areas are submitted to and approved by the Local Planning Authority. The development shall then be constructed in accordance with the approved materials and detailing.

Reason:- To ensure that the proposed development does not prejudice the appearance of the development and the visual amenities and character of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

4. Prior to the occupation of the development, details of a scheme of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s)/use is/are occupied. Development shall be carried out in accordance with the approved details and maintained as approved.

Reason:- To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. Following construction of any groundwork and foundations, no construction of development above damp course level shall take place until a report is submitted to and agreed by the Local Planning Authority which includes details and drawings demonstrating how 10% of the energy requirements generated by the development as a whole will be achieved utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The detailed report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised for each of the proposed buildings to meet collectively the requirement for the scheme. The agreed measures shall be implemented with the construction of each building and thereafter retained.

Reason:- To ensure that the development is sustainable and complies with Policy SP7 and CC1 of the Spelthorne Development Plan Core Strategy and Policies DPD.

6. Facilities within the curtilage of the site for the storage of refuse and recycling materials shall be submitted to and approved by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the development hereby approved and retained thereafter.

Reason:- To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

7. The parking space(s) and/or garage(s) shown on the submitted plan be constructed and made available for the development prior to occupation and thereafter the approved facilities together with the means of access thereto shall be maintained as approved, and be reserved for the benefit of the development hereby permitted.

Reason:- To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway(s) and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required, in accordance with policy CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

8. That no further first floor openings of any kind be formed in the eastern and western elevation(s) of the building hereby permitted without the prior written consent of the Local Planning Authority.

Reason:- To safeguard the amenity of neighbouring residential properties in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

9. Prior to the commencement of development a survey report detailing ground conditions of the site shall be submitted to and approved in writing by the Local Planning Authority. Where made ground or contamination is encountered a scheme to investigate, assess and remediate contamination risks shall be agreed in writing with the Local Planning Authority, and shall be carried out in accordance with the agreed details and timetable.

Reason:- To protect the amenities of future residents and the environment from the effects of potentially harmful substances.

10. Prior to the first use or occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.

Reason:- To protect the amenities of future residents and the environment from the effects of potentially harmful substances.

NOTE

The requirements of the above Condition must be carried out in accordance with current best practice. The applicant is therefore advised to contact Spelthorne's Pollution Control team on 01784 446251 for further advice and information before any work commences. An information sheet entitled "Land Affected By Contamination: Guidance to Help Developers Meet Planning Requirements" proving guidance can also be downloaded from Spelthorne's website at www.spelthorne.gov.uk.

In accordance with policies SP6 and EN15 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

11. There shall be no raising of existing ground levels on the site within the area liable to flood, other than in accordance with the approved details.

Reason:- To prevent the increased risk of flooding due to impedance of flood flows and reduction in flood storage capacity in accordance with policies SP1, SP7 and LO1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

12. All spoil and building materials stored on site before and during construction shall be removed from the area of land liable to flood upon completion.

Reason:- To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity in accordance with policies SP1, SP7 and LO1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

13. The development hereby approved shall not be occupied unless and until 1 of the parking spaces is 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 to the satisfaction of the Local Planning Authority.

Reason:- in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and accord with the National Planning Policy Framework 2019 and policy CC2 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009.

Informatives:

1. Historically land across Spelthorne has been subjected to extensive mineral extraction, with subsequent infilling of the resultant voids. Excavations during some development works have encountered fill materials where records have not previously identified a history of extraction / infilling. To confirm ground conditions at the application site minimum requirements of the survey are as follows:

- The excavation of 2 -3 trial holes to a depth of 1.00mbgl. This can be done by hand or with a small digger
- At least one location beneath the footprint of the proposed dwelling and another one to two holes within the proposed rear garden and other associated landscaped areas.
- an inspection to be made of the ground conditions and confirm the absence or otherwise of any made ground / fill materials at this property, their thickness and extent.
- Photographs shall be taken of each exploratory position including all associated soil arisings (soils excavated and placed to the side of the hole as works progress).

- Where different soil horizons are encountered (i.e. topsoil to 0.40mbgl overlying a layer of sandy gravel to 0.60mbgl with stiff clay to the base of the excavation (c.1.00mbgl)) appropriate written logs will be required to detail the depths, thickness and description of the materials encountered.
- a scale plan (such as the site layout plan) indicating the location of the exploratory positions in relation to the proposed property and a photograph taken across the site detailing the soils and arisings.
- The information, logs and photographs can be submitted to us in a simple letter report.
- If made ground materials are encountered during the excavations soil sampling and assessment of contamination risks will be required to be undertaken by a suitably qualified person.

Made ground refers to non natural / notable fill materials – fragments of brick, concrete, metal, plastic, timber, glass, ashy materials. Evidence of contamination is identified by either visual (staining of soil or sheens on groundwater (if encountered)) or olfactory means (organic, tarry, hydrocarbon / petrochemical odours). In the event that materials of this nature are discovered during the survey, you are advised to contact us for further guidance.

2. This development is situated within 250 metres of a historic landfill site or gravel pit, which potentially could produce landfill gas. You may be required under Building Regulations to install basic gas protection measures. Any protection measures should be in accordance with the guidance contained in BRE 414. Please contact Spelthorne's Pollution Control team on 01784 446251 for further advice and information before any work commences. The Environment Agency may also hold information indicating the likelihood of landfill gas affecting the property: Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY, tel: 03708 506 506, email: enquiries@environment-agency.gov.uk .
3. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
 - on or within 16 metres of a sea defence
 - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
4. The applicant's attention is drawn to the requirements of the Party Wall Etc. Act 1996 in relation to work close to a neighbour's building/boundary.
5. You are advised that the Council will expect the following measures to be taken during any building operations to control noise, pollution and parking:

- a) A detailed specification of demolition and construction works at each phase of development including consideration of all environmental impacts and the identified remedial measures
 - b) Site perimeter automated noise and dust monitoring;
 - c) Engineering measures to eliminate or mitigate identified environmental impacts e.g. hoarding height and density, acoustic screening, sound insulation, dust control measures, emission reduction measures, location of specific activities on site, etc.;
 - d) Arrangements for a direct and responsive site management contact for nearby occupiers during demolition and/or construction (signage on hoardings, newsletters, residents liaison meetings, etc.)
 - e) A commitment to adopt and implement of the ICE Demolition Protocol and Considerate Contractor Scheme;
 - f) f) To follow current best construction practice BS 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites',
 - g) BS 7385-2:1993 Evaluation and measurement for vibration in buildings. Guide to damage levels from ground borne vibration,
 - h) BS 6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings - vibration sources other than blasting,
 - i) Relevant EURO emission standards to comply with Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999,
 - j) Relevant CIRIA practice notes, and
 - k) BRE practice notes.
 - l) Site traffic - Routing of in-bound and outbound site traffic, one-way site traffic arrangements on site, location of lay off areas, etc.;
 - m) Site waste Management - Accurate waste stream identification, separation, storage, registered waste carriers for transportation and disposal at appropriate destinations.
 - n) Noise mitigation measures employed must be sufficient to ensure that the noise level criteria as outlined in BS8233:2014 and WHO guidelines is achieved.
6. You are advised that the Council will expect the following measures to be taken during any building operations to control noise, pollution and parking.

- a) Work that is audible beyond the site boundary should only be carried out between 08:00hrs to 18:00hrs Monday to Friday, 08:00hrs to 13:00hrs Saturday and not at all on Sundays or any Public and/or Bank Holidays;
- b) The quietest available items of plant and machinery should be used on site. Where permanently sited equipment such as generators are necessary, they should be enclosed to reduce noise levels;
- c) Deliveries should only be received within the hours detailed in (a) above;
- d) Adequate steps should be taken to prevent dust-causing nuisance beyond the site boundary. Such uses include the use of hoses to damp down stockpiles of materials, which are likely to generate airborne dust, to damp down during stone/slab cutting; and the use of bowsters and wheel washes;
- e) There should be no burning on site;
- f) Only minimal security lighting should be used outside the hours stated above; and
- g) Building materials and machinery should not be stored on the highway and contractors' vehicles should be parked with care so as not to cause an obstruction or block visibility on the highway. Further details of these noise and pollution measures can be obtained from the Council's Environmental Health Services Unit. In order to meet these requirements and to promote good neighbourliness, the Council recommends that this site is registered with the Considerate Constructors Scheme (www.ccscheme.org.uk/index.php/siteregistration).