

# Planning Committee

02 March 2022



<b>Application No.</b>	21/01276/FUL
<b>Site Address</b>	Land Adjacent to former Swan Inn House, Moor Lane, Staines-upon-Thames, TW19 6EB
<b>Applicant</b>	Mr and Mrs J Parnell
<b>Proposal</b>	Erection of a 4-bedroom two storey dwelling with dormers in the roof to front and rear and a single storey garage and car port to the side.
<b>Case Officer</b>	Matthew Churchill
<b>Ward</b>	Staines
<b>Called-in</b>	This application is being referred to Planning Committee under the terms of Reference for Planning Committee, paragraph 2: where the planning Development Manager decides in consultation with the Chairman of the Planning Committee that an application should be submitted to Planning Committee on planning grounds. In this instance as an application for a new dwelling has been refused and dismissed at appeal at this site on flooding grounds on two previous occasions. The revised application is now recommended for approval.

<b>Application Dates</b>	Valid: 16.08.2021	Expiry:16.09.2021	Target: Over 8 weeks
<b>Executive Summary</b>	<p>This planning application seeks the construction of a four-bedroom detached dwelling, on vacant land situated adjacent to the former Swan Inn Public House. The dwelling would be set over three storeys, with the second floor situated within the roof space.</p> <p>The Council's records indicate that the application site is situated on land located upon a 'dry island'. This means that whilst the majority of the site is located within the 1 in 1000-year flood zone (flood zone 2) the property is situated upon land that is entirely surrounded by the 1 in 100-year (flood zone 3a) and 1 in 20-year (flood zone 3b) flood event areas.</p> <p>As such, in a 1 in 100-year flood event, the Council's records indicate future occupants would have to navigate through flood waters to get to other locations, such as if they required food supplies, or had a medical emergency.</p> <p>The construction of new dwellings upon 'dry islands' is contrary to Policy LO1 and the Council's Supplementary Planning Document (SPD) on Flooding (July 2012), which advises that proposals for new dwellings on 'dry islands' will add to the problems of the emergency services in a major flood event and will be treated the same in terms of flood risk as</p>		

	<p>the area around them regardless of their size.</p> <p>Additionally, two previous planning applications for new dwellings at the site, were both refused on the grounds of the absence of a 'dry means of escape' (12/01134/FUL &amp; 09/00855/FUL). Appeals against each refusal were also dismissed by the Planning Inspectorate.</p> <p>However, whilst the Council's records indicate that the site is situated upon 'dry island', the applicant has submitted detailed evidence including a topographical survey and Flood Risk Assessment, to demonstrate that there is a 'dry means' of escape away from the site in a 1 in 100 year flood event.</p> <p>The Council appointed an independent flooding advisor to review the applicant's information. The advisor stated that whilst there may be some 'shallow ponding' along the route, it would remain largely dry and the advisor recommended that the Council should not refuse the application on the grounds of the 'route of escape'. Given the applicant's evidence and the comments of the independent advisor, the proposal is considered to be acceptable in this regard.</p> <p>It is also considered that the proposal would have an acceptable impact upon the character and appearance of the area, the character and setting of the adjoining Moor Cottage, which is a Grade II Listed building, future occupiers, residential amenity, biodiversity and parking provision. The proposal is therefore considered to be in accordance with the objectives of policies EN1, CC2, CC3, LO1, EN8 and the NPPF.</p>
<p><b>Recommended Decision</b></p>	<p>Approve the application subject to no material objection being received by 17 March 2022 in relation to the statutory site and press notices concerning the setting of the adjacent listed building. The approval is also subject to the conditions set out at Paragraph 8 of the Report.</p>

## 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:
- SP1 – Location of Development
  - LO1 – Flooding
  - SP2 – Housing Provision
  - HO1 – Provision for New Housing Development
  - SP6 – Maintaining and Improving the Environment
  - EN1 - Design of New development
  - CC1 – Renewable Energy, Energy Conservation and Sustainable Construction
  - CC2 – Sustainable Travel
  - CC3 – Parking Provision
- 1.2 Also relevant are the following Supplementary Planning Documents/Guidance:
- SPG on Parking Standards (updated 2011)
  - SPD on Flooding (July 2012)
  - SPD on the Design of Residential Extensions and New Residential Development (April 2011)
- 1.3 The Advice contained in the National Planning Policy Framework (NPPF) (July 2021) is also relevant.

### 2. Relevant Planning History

- 2.1 The site has the following planning history:

09/00164/FUL	Erection of two dwellings with associated car parking and amenity space.	Refused 28.07.2009
09/00885/FUL	Erection of a two-storey dwelling with associated parking and amenity space	Refused 04.02.2010
		Appeal Dismissed 02.08.2010

### **3. Description of Current Proposal**

- 3.1 The application site relates to a vacant plot of land situated adjacent to the former Swan Inn Public House, in Moor Lane in Staines-upon-Thames. The site is accessed across common land from the public highway (Moor Lane). The applicant has included this land within the red site boundary and has completed Certificate B confirming that they have served notice upon anyone with an interest in this land. The application dwelling would not be located on the common land.
- 3.2 The application site is situated to the south of Moor Cottage, which is a two storey Grade II Listed Building, which is understood to have been constructed in the 17<sup>th</sup> Century. The site is also partially located within the 1 in 100-year (flood zone 3a) and 1 in 1000-year flood event areas (flood zone 2). The land situated at the front and rear of the site also adjoins land in the Green Belt. However, the site itself is situated wholly outside of the Green Belt.
- 3.3 The Council's records indicate that the site is situated upon land forming a 'dry island', which is surrounded by the 1 in 20 (flood zone 3b) and 1 in 100-year (flood zone 3a) flood event areas. However, the applicant's Flood Risk Assessment, which includes a topographical survey, and further clarification emails from the flood risk consultant, indicate that it would be possible to escape away from the site in a 1 in 100-year flood event, across a route that they consider would remain entirely dry.
- 3.4 The application proposes the construction of a four-bedroom detached dwelling. The dwelling would incorporate a gable roof, with two dormers situated in the front elevation, and a larger dormer located in the rear elevation. The dwelling would measure approximately 8.5 metres in height at the ridge. There would be four bedrooms on the first floor and the applicant has confirmed that the roof space would be used for amenity purposes, including as a home office, home cinema and games and hobby space. There would be a patio and garden at the rear that would measure some 223.9m<sup>2</sup> in area. The dwelling would also be served by a garage and car port, providing two off-street parking spaces.
- 3.5 A copy of the proposed plans has been included within the appendices.

#### 4. Consultations

4.1 The following table shows those bodies consulted and their response.

<b>Consultee</b>	<b>Comment</b>
<b>Environmental Health</b>	Recommends conditions.
<b>Surrey Wildlife Trust</b>	No comments received.
<b>Natural England</b>	No objections
<b>Environment Agency</b>	No objections.
<b>Heathrow Airport</b>	Recommends an Informative
<b>County Highway Authority</b>	Recommends conditions.
<b>Heritage Advisor</b>	No objections.
<b>Independent Flooding Advisor</b>	No objections to the proposed route of escape.

#### 5. Public Consultation

5.1 The Council has consulted the occupiers of 7 neighbouring properties. A total of two letters of presentation have been received which object to the proposal on the following grounds:

- The welfare of disabled people has not been taking into consideration in the design, including concerns of the absence of a ramp for access (Officer Note: The Council has received revised plans, which show there would be a ramp up to the front door).
- Concerns over noise and disturbance during the construction process (Officer Note: An informative is recommended to be attached to the decision notice concerning construction).
- The proposal may impact a nearby Listed Building.
- Concerns over the impact upon telephone lines (Officer Note: this is not a planning matter)
- Concerns over privacy and overlooking.

#### 6. Planning Issues

- Principle of development.
- Need for housing.
- Flooding.
- Character & Appearance
- Impact on residential amenity
- The impact upon the neighbouring Grade II Listed Building.
- Contaminated Land.
- Waste & Recycling.

- Renewable Energy.
- Equality Act.
- Human Rights Act.
- Local Finance Considerations.

## **7. Planning Considerations**

### Need for Housing

- 7.1 When considering planning applications for housing, local planning authorities should have regard to the government's requirement that they significantly boost 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 with policies set out in the National Planning Policy Framework (NPPF) 2021.
- 7.2 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 611 dwellings per annum in Spelthorne. This figure forms the basis for calculating the five-year supply of deliverable sites.
- 7.3 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 2021, but the full five year time period runs from the end of the current year, that is, 1 April 2022 to 31 March 2027. 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 611 results in a figure of 733 dwellings per annum, or 3666 over five years.
- 7.4 In using the objectively assessed need figure of 733 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.
- 7.5 The sites identified in the SLAA as being deliverable within the first five years and subsequent updates from landowners have been used as the basis for a revised five year housing land supply figure. Spelthorne has identified sites to deliver approximately 3263 dwellings in the five year period.
- 7.6 The effect of this increased requirement with the application of a 20% buffer is that the identified sites only represent a 4.5 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.

- 7.7 Government guidance (NPPF para 74) 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 and a presumption in favour of sustainable development if the figure is below 75%. 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 sustainable 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.
- 7.7 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 (2021). 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’

### Flooding

- 7.8 The Council’s records indicate that the application site is located upon a ‘dry island’. This means that whilst the site itself is largely situated in the 1 in 1000-year flood event area (flood zone 2), the property is located on land which the is entirely surrounded by the 1 in 100 (flood zone 3a) and 1 in 20-year flood event areas (flood zone 3b).
- 7.9 The Council’s records therefore suggest that in a 1 in 100-year flood event, it would not be possible for future occupiers to leave the ‘dry island’, for example if they required food supplies or medical assistance, without passing through flood waters.
- 7.10 However, notwithstanding the Council’s flooding records, which are based upon Environment Agency data, the applicants Flood Risk Assessment and additional information suggests that a ‘dry means of escape’ away from the site is achievable outside of the 1 in 100-year flood event area. The applicant’s flooding information has been reviewed by an independent advisor, who has raised no objections to the proposed route of escape.

### Flooding – Site Background

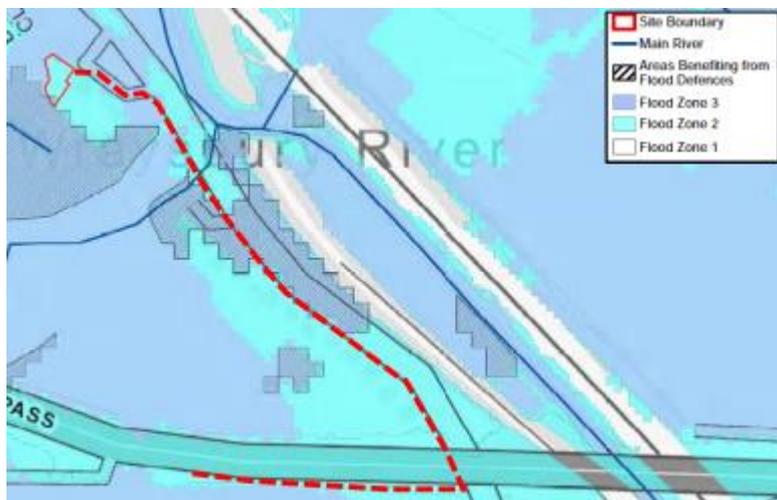
- 7.11 There have been two previous planning refusals at the site for the construction of a single new dwelling relating to flooding matters which are considered to be a material planning consideration in the determination of the current application.
- 7.12 In February 2010, planning permission was refused for the erection of a two-storey dwelling with associated parking and amenity space (09/00855/FUL). The application was refused as there was insufficient evidence to demonstrate a safe route of access away from the site to an area wholly outside of the 1 in 100-year floodplain, with a 20% allowance for climate change.
- 7.13 The application was also refused because of concerns relating to floodplain storage compensation and floodwater displacement. Additionally, the scheme was not considered to meet the Council's sequential test for development in the flood plain.
- 7.14 An appeal against refusal was dismissed by the Planning Inspectorate in July 2010 (APP/Z3625/A/10/2123470). The Inspector considered the dwelling to be acceptable in terms of its design and impact upon the neighbouring Grade II Listed Building at Manor Cottage.
- 7.15 However, the Inspector considered that the construction of the dwelling would have resulted in a reduction in flood storage capacity. Additionally, as there was no dry means of escape available away from the site along Moor Lane, the Inspector considered that if future occupants did not take heed of early flood warnings, they would add to the problems of the emergency services. The Inspector considered that this would place an unacceptable burden on the emergency services and concluded that the proposal was contrary to policy LO1.
- 7.16 A further application proposing a new dwelling was also refused at the site in January 2013 (12/01134/FUL). The application was refused as insufficient evidence was provided to demonstrate that there was a safe route of access away from the site leading to an area wholly outside of the 1 in 100-year floodplain, with a 20% allowance for climate change. Additionally, the proposal was considered to fail to meet the sequential test for development in the floodplain and would have resulted in an increased flood risk to the surrounding area and future occupants.
- 7.17 An appeal against refusal was dismissed by the Planning Inspector in February 2014 (APP/Z3635/A/13/2197576). The Inspector noted that the Flooding SPD (July 2012) states that the Council's housing requirements can be met without having to develop sites located in flood zone 3a. The Inspector therefore considered that the proposal was contrary to the provisions of national planning policy. However, the Inspector did not raise objections on the grounds of flood storage capacity and flood flows in the absence of an objection from the Environment Agency. The Inspector instead concluded that the appeal site would not be appropriate for development, as they were not persuaded that the proposal would provide a safe means of escape in the event of flooding, and the development would therefore conflict with policy LO1.

- 7.18 The two previous planning refusals and subsequent appeal dismissals are considered to be material planning considerations in the determination of the current application. However, since the first planning application was refused in 2010, and the subsequent planning appeal was dismissed also in 2010 (09/00855/FUL), the Council's SPD on Flooding has been published and the NPPF has been introduced and revised on a number of occasions.
- 7.19 It should also be noted that the dwelling refused in 2013, and subsequent appeal dismissal in 2014 (21/01134/FUL) considered that the application dwelling would have been located in flood zone 3a, whereas the Council's current records, which are based upon information provided by the Environment Agency, indicate that the application dwelling would be located in Flood Zone 2.

#### Flooding – 'Dry Island' & 'Dry Means of Escape'

- 7.20 The Council's Supplementary Planning Document (SPD) on Flooding (July 2012) advises that individuals occupying dwellings situated upon 'dry islands' may require assistance during a major flood event and would consequently add to the problems of the emergency services. The SPD states that applications proposing new dwellings upon 'dry islands' will therefore be treated the same in terms of flood risk as the area around them regardless of their size. As the site surrounded by the 1 in 100-year flood event area (flood zone 3a) the application would therefore normally be treated as though the site were situated in the 1 in 100-year flood event area.
- 7.21 Policy LO1 e) states that the Council will not permit residential development or the change of use to other 'more vulnerable uses' within the 1 in 100 flood event area (flood zone 3a), where flood risks cannot be overcome. In the case of a 'dry island' the flood risks associated with the development are the absence of an escape route away from the site that would remain dry in a 1 in 100-year flood event. If such a route is not available, future occupiers would have to navigate through flood waters to leave the 'dry island', for example if they required food supplies or medical treatment. In such a scenario they would add to the problems of the emergency services during a major flood event.
- 7.22 The Council's Flooding SPD (July 2012) advises that applicants may sometimes seek to argue that it is safe and therefore reasonable for individuals to escape a site by walking through flood waters of limited depth. However, the SPD states that the Council does not accept this approach because fast moving water, even of shallow depth can be dangerous particularly to more vulnerable groups such as children and the elderly. Additionally, still water can be dirty and contaminated and may contain debris or sewage water and could hide obstacles such as holes beneath the surface, which could be hazardous. The SPD therefore states that the Council's position is that for residential development, the only safe route of escape is a 'dry route'.

- 7.23 The current planning application has been supported by a Flood Risk Assessment (FRA). This suggests a proposed escape route away from the site that would require occupiers of the proposed dwelling to venture south-east when leaving the site onto Moor Lane. They would then travel south along Moor Lane and pass underneath the Staines-Bypass. Upon passing underneath the bypass future occupiers would then head west along the footpath to the South of the A30. This is illustrated below:



- 7.24 The Council's records show that this route would pass through approximately 120 metres of the 1 in 100-year flood event area (flood zone 3a), which would be flooded during a 1 in 100-year flood event. However, a topographical survey has been submitted by the applicant, which details AOD levels (Above Ordnance Datum) measured along the proposed escape route.
- 7.25 AOD levels are a measure of the height of the land above sea level (taken from Newlyn in Cornwall). The applicant's consultant has confirmed that the AOD levels shown in their topographical survey demonstrate that despite the Council's records suggesting that the escape route would pass through the 1 in 100-year flood event area, and would therefore flood during a 1 in 100-year flood event, the AOD figures demonstrate that the route would remain entirely dry in such a flood event and would therefore represent a 'dry means of escape' away from the site, which would comply with the requirements of the Council's Flooding SPD.
- 7.26 The planning officer appointed an independent flooding advisor to review the applicant's data. The advisor has stated that there are likely to be some areas immediately outside of the application property where future occupants make experience some shallow ponding of up to 55 mm (5.5 cm) in depth, although the applicant has technically complied with the requirements of the route remaining dry. The advisor further commented that any flooding on the route would present virtually no hazards. The advisor therefore considered that a refusal on the basis of a dry means of escape cannot be robustly defended. The advisor also commented that he considered the route would be dry with a 35% allowance for climate change.
- 7.27 Given that the applicants data indicates that a dry means of escape away from the site would be possible outside of the 1% annual exceedance

probability, and given the comments of the Council's independent flooding advisor, it is considered that future occupiers would be provided with an acceptable route of escape away from the site, and the application would be acceptable in this regard.

#### Flooding – Flood Storage Capacity & Flood Flows

- 7.28 The applicant's FRA further confirms that in an undefended scenario, the 1 in 100-year flood event level at the site would be 16.03m AOD. The applicant's topographical survey confirms that the dwelling would be situated on land above this level, and the dwelling is therefore understood to be situated within the 1 in 1000-year flood event area (flood zone 2).
- 7.29 The Council's Flooding SPD and the Planning Practice Guidance (PPG) indicates that a dwelling is classified as a 'more vulnerable' use, is an appropriate use in flooding terms in flood zone 2. Whilst the Flooding SPD was published in 2012 and is now nearly 10 years old, housing targets have significantly increased since publication of the SPD. It is not considered that objection could be reasonably sustained against the principle of a new dwelling in this flood event area.
- 7.30 In the event that the applicant was unable to demonstrate a dry means of escape away from the site, the Council would have treated the application as the dwelling was located in flood zone 3a, as required by policy LO1 e). However, as there is considered to be a 'dry means of escape' and the dwelling would be located in flood zone 2, the proposal is considered to fall within the Council's sequential test approach for Flood Zone 1 & 2 as set out in the Flooding SPD, and an exception test is not a requirement in this flood zone.
- 7.31 The applicant's FRA confirms that the finished floor levels in the dwelling would be set above the 1 in 100-year flood event area, with a 35% allowance for climate change, and in this regard the proposal is considered to comply with the flooding objectives of the NPPF, which states that where development is necessary in flood event areas, it should be made safe for its lifetime.
- 7.32 The Environment Agency has also set out conditions in its Flood Risk Standing Advice, which are recommended to be attached to the decision notice. Provided that the applicant adheres to such conditions, it is considered that the proposal would be in accordance with the objectives of policy LO1. The Council has also consulted the Environment Agency, which has raised no objections on flooding (including flood storage) grounds.

#### Flooding Summary

- 7.33 Whilst the Council's records indicate that the applicant's proposed route of escape during a major flood event would pass through the 1 in 100-year flood event area, the applicant's flooding consultant has confirmed that the route would remain dry in such an event. The Council's independent flooding advisor has also raised no concerns over the proposed route of escape.

- 7.34 The proposed dwelling is considered to be an appropriate use in flood zone 2, given that the Flooding SPD confirms that land in flood zones 1 and 2 is required for housing and the Planning Practice Guidance (PPG) confirms that 'more vulnerable' flooding uses, including dwelling houses, are appropriate in flood zone 2.
- 7.35 Provided the application adheres to the conditions recommended in the Environment Agency's Standing Advice which are recommended to be attached to the decision notice, it is considered that the proposal would have an acceptable impact upon the flood zone and would be in accordance with the objectives of policy LO1 and the NPPF in flooding terms.

#### Character and Appearance

- 7.36 The NPPF states the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve. The Framework further advises that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. The NPPF further states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- 7.37 Additionally, the NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of the 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 and landscape setting, whilst not preventing or discouraging appropriate innovation or change.
- 7.38 The National Design Guide, Planning Practice Guidance for Beautiful, Enduring and Successful Places, produced by MHCLG in 2021, addresses how well-designed places are recognised by outlining ten characteristics; context, identity, built form, movement, nature, public spaces, uses, homes and buildings, resources and life space.
- 7.39 In paragraph 51, referring to identity, the design guide states that well-designed places, building and spaces have a character that suits the context, its history, how we live today and how we are likely to live in the future.
- 7.40 At paragraph 53, the guide advises that well-designed new development is influenced by an appreciation and understanding of the vernacular, local or regional character, including existing built form, landscape and local architectural precedents.
- 7.41 At paragraph 66, the guide further states that built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to its context.
- 7.42 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 proposals for new development should demonstrate that they will 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, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land.

- 7.43 The application site is situated on a side road to the west of Moor Lane. The road is occupied by four terraced dwellings, namely 1-4 Watermans Cottages, as well as the former Swan Inn Public House, which is now a two-storey detached dwelling. Moor Cottage, a two storey detached Grade II Listed Building, is situated to the north-west of the site and also accessed by the side road. There are also a number of two storey semi-detached dwellings in Berkley Close to the north, which are visible from the application site.
- 7.44 Given the surrounding dwelling mix, the principle of a two-storey detached dwelling with dormers in the roof is considered to be acceptable in this location. In terms of detailed design, the dwelling would incorporate a gable roof, which would measure approximately 8.5 metres in height and is considered to be acceptable in design terms. The dwelling would contain two modest dormers in the front elevation, which are not considered to be unduly out of character particularly in the context of the two dormers contained in the front elevation of the former Swan Inn Public House adjacent to the site.
- 7.45 The application also proposes a dormer in the rear elevation. The Council's SPD on design states that well-designed dormers should be located centrally or symmetrically on a roof, should be set in a minimum of 1 metre from the roof edge, 0.5 metres from the ridge and 1 metre up from the eaves. The dormer would comply with this guidance. The SPD also states that dormers should incorporate a roof that would be compatible with the main roof and should not be over-dominant or out of proportion in the roof space. It is acknowledged that the dormer would contain a flat roof when the main roof body would be pitched. However, a dormer with a flat roof and of a similar scale is contained in the rear elevation of the former Swan Inn Public House and in this context, it is considered that the dormer would have an acceptable impact upon the character and appearance of the area.
- 7.46 The dwelling would be set in 1 metre from the southern site boundary and is not considered to have a terracing effect upon the dwelling at the former Swan Inn. The application also proposes a side garage and car port, which are also considered to be acceptable in design terms. The proposed materials of brick and roof tiles are also considered to be satisfactory, although in any event it is recommended that details of materials are secured by condition. The dwelling is considered to be in keeping with the character and scale of the surrounding locality and would have an acceptable visual impact upon the street scene. The proposal is therefore considered to be in accordance with the objectives of policy EN1 and the NPPF in design terms.

#### Future Occupiers

- 7.47 The nationally described Technical Housing Standards (March 2015) state that a 4-bedroom, 8 person dwelling set over 3 storeys, should incorporate a minimum internal floor area of at least 130m<sup>2</sup>. The application dwelling would

have an internal floor area of approximately 241.86m<sup>2</sup>. The proposal is therefore considered to provide an acceptable level of internal amenity to its future occupiers.

- 7.48 The Council's SPD on design states that detached dwellings should contain a minimum amenity (garden) area, of at least 70m<sup>2</sup>. The plans indicate that the dwelling would incorporate a garden area in excess of 200m<sup>2</sup> significantly exceeding the Council's guidelines. The proposal is therefore considered to be acceptable in this regard.

#### Impact on Residential Amenity

- 7.49 Policy EN1 of the CS&P DPD states that proposals for new development should 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.
- 7.50 The Council's Supplementary Planning Document (SPD) on the *Design of Residential Extensions and New Residential Development* (April 2011) at paragraph 3.6 states that most developments will have some impact on neighbours. The aim should be to ensure that the amenity of adjoining occupiers is not significantly harmed.
- 7.51 It is considered that the proposal would have an acceptable impact upon the occupiers of the former Swan Inn located to the south of the site, which is now a residential dwelling. This property contains a ground floor window in the front elevation which is understood to serve a living room. The proposed dwelling would be set back approximately 1.2 metres from the front elevation of the former Swan Inn, and as such is would not breach the Council's 45° horizontal or vertical guides when measured from this window.
- 7.52 A ground floor doorway is contained in the rear elevation of the former Swan Inn. It is evident from a recent planning application at this property (21/00654/HOU) that this doorway serves a utility room. Given that the doorway does not serve a habitable room, the impact upon light serving this opening is considered to be acceptable. This property also contains a ground floor window in the northern flank elevation, which serves a shower room. As this is also not a habitable room, the impact upon this window is also considered to be acceptable. A ground floor lean-to structure at the rear of this property is also considered to mitigate any adverse impacts.
- 7.53 The proposed dwelling is also considered to have an acceptable impact upon ground floor windows serving the playroom and kitchen in the rear elevation of the former Swan Inn, and the first-floor windows serving bedrooms. The proposal is also considered to have an acceptable impact upon the privacy of the occupiers of the former Swan Inn, owing to the oblique angles of the proposed first floor windows.
- 7.54 The dwelling is further considered to have an acceptable impact upon the occupiers of Moor Cottage located to the north of the site. There would be a first-floor window in the northern flank elevation of the two-storey rear element

of the proposed dwelling. However, this would be located some 9 metres from the northern boundary (some 7 metres when measured obliquely owing to the boundary layout) and is not considered to give rise to unacceptable opportunities for overlooking. The first floor of the proposed dwelling would also be situated some 15 metres from the dwelling at Moor Cottage, and at such a distance, is not considered to cause adverse impacts upon the light serving this property. Given the overall scale and design of the dwelling, the proposal would not have an adverse impact upon the light privacy or amenity of the occupiers of Moor Cottage, and the scheme is also not considered to have an overbearing impact.

- 7.55 The application dwelling is also considered to have an acceptable impact upon the residential amenity of all further dwellings in the surrounding locality.

#### Listed Building

- 7.56 The application site is located to the south of Moor Cottage, which is a Grade II Listed Building, understood to have been constructed in the 17<sup>th</sup> Century. Section 66 of the Listed Building Act 1990 requires authorities when considering whether to grant planning permission affecting a listed building to have regard to the impact upon the Listed Building and its setting.
- 7.57 At paragraph 200, the NPPF that any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification, and substantial harm to or loss of a Grade II Listed Building should be exceptional. Policy EN5 of the CS&P DPD states that the Council will encourage the retention of buildings of local architectural heritage or historic interest to ensure that their character and setting is preserved in development proposals.
- 7.58 The Council's Heritage Advisor has been notified of the application and has commented:

*"It seems clear that the negative issue in the past was the problem of flooding, so the principle of a detached house here is established. This proposal places the bulk of the building close to the former Swan Inn, leaving adequate distance from the listed cottage on the other side, also on this side of the new house the garage/carport is single storey thus respecting the setting of the LB.*

*I have no adverse comments".*

- 7.59 In light of the comments of the Heritage Advisor, it is considered that the proposal is in accordance with the objectives of policy EN5 and the NPPF and would have an acceptable impact upon the Grade II Listed Moor Cottage and its setting. It should be noted that the statutory press notice relating to the setting of the listed building does not expire until 17<sup>th</sup> March 2022 and any recommendation to approve should be subject to no material objection being received by 17 March 2022 in relation to the statutory site and press notices concerning the setting of the adjacent listed building.

#### Parking Provision

- 7.60 Policy CC2 states that the Council will seek to secure 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 access and egress to the public highway and highway safety. Policy CC3 states that the Council will require that appropriate provision is made for off-street parking provision in accordance with the Council's Parking Standards.
- 7.61 The NPPF states that development should only be prevented or refused on highways grounds, if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.62 The Council's Parking Standards SPD states that four-bedroom dwelling or larger, should contain a minimum of 2.5 off-street parking spaces (rounded up to 3). The application proposes one parking space in the proposed garage and one parking space in the proposed car port. The proposal would therefore fall 0.5 (rounded up to 1) off-street parking space short of the Council's guidance. It is not considered that an objection could be sustained on the grounds of this shortfall.
- 7.63 The Council has also consulted the County Highway Authority, which has raised no objections, subject to a condition being attached to the decision notice requiring the provision of an electric vehicle charging point. It is recommended that this condition is attached to the decision notice.

#### Biodiversity

- 7.64 Policy EN8 of the CS&P DPD states that the Council will seek to protect and improve the landscape and biodiversity.
- 7.65 The application site is situated approximately 45 metres from Staines Moor, which is a Site of Special Scientific Interest. As a result, the Council has consulted both Natural England and the Surrey Wildlife Trust.
- 7.66 Natural England has raised no objections, although has commented that machinery used during the construction process should be stored safely to avoid any potential for pollution to enter the ground locally, which could have an adverse impact upon the SSSI. It is recommended that the applicant is advised of this in an informative.
- 7.67 The Council has not received a response from the Surrey Wildlife Trust. However, it is recommended that a condition is attached to the decision notice requiring the applicant to incorporate biodiversity enhancement measures into the proposed dwelling, including bird and bat boxes. It is considered that this would be in accordance with the objectives of policy EN8.

#### Other Matters

7.68 The Council has consulted Heathrow Safeguarding who has recommended that an informative is attached to the decision notice in relation to cranes.

#### Equalities Act 2010

7.69 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 person 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.

7.70 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.

7.71 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means having such regard as is appropriate in all the circumstances. The NPPF defines people with disabilities as individuals that have a physical or mental impairment, which has a substantial and long-term adverse effects on their ability to carry out normal day-to-day activities. This can include but is not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.

7.72 The Council has received a letter of representation raising concerns that the dwelling would not be accessible for wheelchair users. The applicant has submitted a revised elevation and floor plans, showing that ramps would be provided to the proposed front door. It is therefore considered that the dwelling would be accessible to individuals with disabilities.

#### Human Rights Act 1998

7.73 This planning application has been considered against the provisions of the Human Rights Act 1998.

7.74 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.

7.75 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.

- 7.76 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

- 7.77 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.
- 7.78 In consideration of S155 of the Housing and Planning Act 2016, the proposal would result in the following financial contributions:
- The Community Infrastructure Levy for Zone 1 (£100 per sq m of net additional residential floorspace indexed) will be payable on this site.

This is a material considerations in the determination of this planning application. The proposal will also generate New Homes Bonus, and Council Tax payments which are not material considerations in the determination of this proposal.

### Conclusion

- 7.79 It is considered that the proposal would have an acceptable impact upon the character and appearance of the area, future occupiers, the setting of Moor Cottage a Grade II Listed Building, the amenity of neighbouring and adjoining dwellings, parking provision and biodiversity. The applicant is also considered to have demonstrated that it is possible to leave the site through a dry means of escape in a 1 in 100 year flood event, and subject to the conditions set out in the Environment Agency's Flood Risk Standing Advice, the proposal is considered to adhere to the objectives of policy LO1 and the NPPF in flooding terms. Therefore, the application is recommended for approval.

7.80 Notwithstanding that in this report it is concluded there is no objection on heritage grounds in relation to the listed building, it should be noted that the statutory press notice relating to the setting of the listed building does not expire until 17<sup>th</sup> March 2022. Therefore, the recommendation should be to approve subject no material objection being received by 17 March 2022 in relation to the statutory site and press notices concerning the setting of the adjacent listed building. The decision to approve should then be delegated to the Planning Development Manager in consultation with the Planning Chairman or in his absence, the Planning Vice Chairman.

## 8. Recommendation

Subject to no material objection being received by 17 March 2022 in relation to the statutory site and press notices concerning the setting of the adjacent listed building, GRANT planning permission 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 :- P.04 C, P.03 F, P.02 F, P.01 H (Received 07.12.2021) L.01 A (Received 15.10.2021)

**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 The development hereby approved shall not be occupied unless and until the proposed dwelling 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 makes suitable provision for

sustainable travel, in accordance with the sustainable objectives of Chapter 9 “Promoting sustainable transport” of the National Planning Policy Framework 2021, and policies CC2 and CC3 of Spelthorne Borough Council’s Core Strategy and Policies Development Plan Document February 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.
  
- 6 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.
  
- 7 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.
  
- 8 Prior to the occupation of the building(s), a scheme to provide bird boxes and bat boxes/tubes on the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the building(s) is occupied and thereafter maintained.  
**Reason:** In the interests of wildlife and biodiversity.
  
- 9 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.

- 10 (i) A comprehensive desk-top study, carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the Local Planning Authority.
- (ii) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been agreed in writing with the Local Planning Authority.
- (iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of 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" providing guidance can also be downloaded from Spelthorne's website at [www.spelthorne.gov.uk](http://www.spelthorne.gov.uk).

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

To protect the occupiers of the premises from the ingress and accumulation of landfill gas in accordance with policies SP6 and EN15 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

- 11 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" providing guidance can also be downloaded from Spelthorne's website at [www.spelthorne.gov.uk](http://www.spelthorne.gov.uk).

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

To protect the occupiers of the premises from the ingress and accumulation of landfill gas in accordance with policies SP6 and EN15 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

#### **INFORMATIVES TO APPLICANT**

- 1 The Town and Country Planning (Development Management Procedure) (England) Order 2015  
Working in a positive/proactive manner  
In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of paragraphs 186-187 of the NPPF. This included the following:-
  - a) Provided pre-application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.
  - b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure
  - c) Have proactively communicated with the applicant through the process to advise progress, timescales or recommendation.
  
- 2 Access by the Fire Brigade  
Notice of the provisions of Section 20 of the Surrey County Council Act 1985 is hereby endorsed on this planning permission. Copies of the Section may be obtained from the Council Offices or from County Hall. Section 20 of this Act requires that when a building is erected or extended, proper provision must be made for the Fire Brigade to have means of access to the building or to any neighbouring buildings. There are also requirements relating to access and facilities for the fire service contained in Part B of the Building Regulations 2000 (as amended).
  
- 3 Please note that this application is subject to the payment of Community Infrastructure Levy (CIL). Full details of the charge, how it has been

calculated and what happens next are set out in the CIL Liability Notice which will be sent separately.

If you have not already done so an Assumption of Liability notice should be sent to the Council as soon as possible and before the commencement of development.

- 4 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) 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.

- 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) 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 bowsers 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](http://www.ccscheme.org.uk/index.php/siteregistration)).
- 6 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.
- 7 **Electric vehicle charging**  
It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to: <http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector types.
- 8 The applicant should ensure that machinery and materials and machinery used during the construction process are used and stored safely so as to avoid any potential for pollution to enter the ground locally.

- 9 Given the nature of the proposed application, it is possible that a crane may be required. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/wp-content/uploads/2016/09/Advice-Note-4-Cranes-2016.pdf>)