

WINDSOR URBAN DEVELOPMENT MANAGEMENT PANEL

WEDNESDAY, 24TH MAY, 2017

At 7.00 pm

in the

COUNCIL CHAMBER - GUILDHALL, WINDSOR,

SUPPLEMENTARY AGENDA

PART I

| <u>ITEM</u> | <u>SUBJECT</u> | <u>PAGE NO</u> |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 4. | <p><u>PLANNING APPLICATIONS (DECISION)</u></p> <p>To consider the Head of Planning's report on planning applications received.</p> <p>Full details on all planning applications (including application forms, site plans, objections received, correspondence etc.) can be found by accessing the Planning Applications Public Access Module by selecting the following link.</p> <p>http://www.rbwm.gov.uk/pam/search.jsp or from Democratic Services on 01628 796251 or democratic.services@rbwm.gov.uk</p> | 3 - 12 |

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Agenda Item 4

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD PANEL UPDATE

Windsor Urban Panel

Application No.: 16/01369/FULL
Location: Land At 9
Stephenson Drive
Windsor

Proposal: Detached 4 bedroom dwelling
Applicant: Mr Eccleson
Agent: Mr Martin Pugsley
Parish/Ward: /Clewer North Ward

If you have a question about this report, please contact: Claire Pugh on 01628 685739 or at claire.pugh@rbwm.gov.uk

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| Application No.: | 16/01711/FULL |
| Location: | 33 Clifton Rise Windsor SL4 5SX |
| Proposal: | Single storey rear extension (part retrospective). |
| Applicant: | Mr And Mrs Evans |
| Agent: | Mr Lyndon Morgans - LMDS Architectural Services Ltd |
| Parish/Ward: | /Clewer North Ward |

If you have a question about this report, please contact: David Johnson on 01628 685692 or at david.johnson@rbwm.gov.uk

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| Application No.: | 16/03438/FULL |
| Location: | Former Windsor Rackets And Fitness Club Helston Lane Windsor |
| Proposal: | Alterations and additions to form five no. additional close-care apartments in addition to that approved under 11/00403/FULL. |
| Applicant: | Mr Hughes |
| Agent: | Mr John Montgomery |
| Parish/Ward: | Windsor Unparished/Clewer North Ward |
| If you have a question about this report, please contact: April Waterman on 01628 682905 or at april.waterman@rbwm.gov.uk | |

16/03438/FULL May 24th 2017 WUDMP

1 SUMMARY

- 1.1 No further relevant information has been submitted by the applicant to the Council since the preparation of the agenda report.
- 1.2 No consultation responses have been received from the Environment Agency or from the Council's Emergency Planning Team in relation to the latest Flood Risk Assessment and draft Flood Risk Management Plan.
- 1.3 Preparations for a Section 106 Legal Agreement are now in process to secure the "managed approach" to dealing with flood risk.

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| It is recommended that the Panel defers and delegates authority to the Head of Planning to | |
| 1 | grant planning permission, with the conditions listed in Section 10 of the agenda report, on completion of a satisfactory legal agreement to secure measures to ensure a safe means of escape in the event of flooding through the development on the site approved under separate planning permission. |
| 2 | refuse planning permission if no legal agreement is completed by 5th July 2017. |

2. ADDITIONAL INFORMATION

2.1 Legal Agreement to secure flood risk managed approach.

2.2 The existing planning permission (11/00403/FULL) for the 72-bed care home and 58 close-care suites was granted permission in the light of different advice from the Environment Agency on Climate Change Allowances than is now the case. Instead of making a blanket allowance for climate change of an additional 20% on the calculations for the extent and nature of flood events, EA advice introduced in February 2016 now notes that a range of allowances should be applied, which are particular to the type and longevity of development and the river system that would affect it. For development that would be affected by fluvial flooding from the stretch of the Thames which passes through Windsor, the range of allowances for more vulnerable development, with an expected lifetime of 100 years (standard for residential development) would be from 35% to 70%. Consequently the modelling now included in the latest FRA submitted for this site, for the planning application for 5 additional units, shows a different potential extent and depth of flood water on the site in an extreme event than did the FRA submitted with planning application referenced 11/00403/FULL. While the newer climate change allowance requirements do not negate the planning permission that has been granted (and is now being implemented), they provide an up to date reflection of the risk of flooding that the site can expect, and therefore what the residents and management of the site should prepare for.

2.3 For the reasons set out in paragraphs 6.14 and 6.15 of the Panel Agenda report it is normally not

acceptable to rely on an evacuation plan to render a proposal satisfactory in terms of safe means of escape from flooding. However, this case is considered to be exceptional to the norm on two counts:

- i) the existence of planning permission already for a 72 bed care home and 58 care suites, to which this planning proposal would make a relatively small addition (5 additional units), and
- ii) the opportunity that it presents to improve on the current situation, in which no Flood Risk Management Plan has to date been secured for a site where a “more vulnerable” development is under construction.

2.4 In requiring a legal agreement to secure the preparation and implementation of a comprehensive Flood Risk Management Plan for both the proposed development and for its host building, the arrangements for the evacuation of the whole building can address the most up to date flood risk modelling, rather than be based on predicted flood levels that are now considered to be an underestimation.

2.5 A legal agreement to be attached to any planning permission granted needs to oblige:

- a. The owners/management companies of the whole building to submit to and have approved by the Council a Flood Risk Management Plan which sets out
 - the circumstances under which an evacuation of the flats will be triggered;
 - who will make the decision to evacuate, if such a decision is not automatic on an EA or other external body’s notification;
 - the plan/mechanism for evacuation of residents in the care suites and in the nursing home;
 - the route for the evacuation of residents to a place of safety, and
 - the lock down/closure of utility services (power, gas, water, sewerage) for the building.
- b. The owners/operator/management companies of the care home to ensure that access through the care home to the southern point of the building, and through the garden to the public highway will be provided as necessary, and
- c. The residents of the nursing home and the care suites to comply with any evacuation of the building on instruction once triggered.

2.6 Many of these matters are referred to in the draft Flood Risk Management Plan submitted for this application, but further detail needs to be added to the draft before it covers all necessary items. Because only some and not all of the actions or obligations can be undertaken by the applicant for the planning permission for the five flats (16/03438/FULL), or by the residents of the building, and because instead there is a reliance on other bodies to allow or carry out some of them, on parts of the site over which the applicant or residents will not have ownership or control, the matter should be dealt with by a Sec 106, not by a condition on the planning permission itself.

2.7 Comments from Interested Parties

No additional comments have been received.

2.8 Comments from Consultees

No additional comments have been received

| Comment | Officer response | Change to recommendation? |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Environment Agency – No further comment received | While no comment from the EA has been received, the latest FRA (April 2017, rev B) now takes note of the previous EA comments, insofar as the modelled impacts of flooding include appropriate climate change allowances. The FRA | No |

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| <p>RBWM Emergency Planning Team – no comment received</p> | <p>submitted makes provision for a managed approach to flood risk, relying on the implementation of an evacuation plan for the building to ensure that residents of the building will not be endangered by flooding. As advised by the EA, the Emergency Planning Team at RBWM has been consulted in relation to the draft Flood Risk Management Plan (including evacuation measures)</p> <p>As no comment on the draft Flood Risk Management Plan has been received, it is recommended that consultation with the Emergency Planning Team should take place when a Flood Risk Management Plan is formally submitted for the Council's approval as required by a legal agreement under Section 106.</p> | <p>No</p> |
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| Application No.: | 17/00006/FULL |
| Location: | Thames Court1 Victoria StreetWindsorSL4 1YB |
| Proposal: | Construction of a 5 storey building with associated car parking (including provision for public use at specific times), access and landscaping works following demolition of existing office building. |
| Applicant: | BMW (UK) Trustees Limited |
| Agent: | Philip Marsden |
| Parish/Ward: | Windsor Unparished/Castle Without Ward |
| If you have a question about this report, please contact: Claire Pugh on 01628 685739 or at claire.pugh@rbwm.gov.uk | |

1. SUMMARY

- 1.1 The applicant has made representations to point out where they disagree with points made in the officer report. These comments are summarised and addressed below. Comments from Environmental Protection have been received and are summarised within this report.

It is recommended the Panel refuses permission with amended reason for refusal section 3 below

2. ADDITIONAL INFORMATION

- 2.1 The applicant has submitted a letter which asserts that there are inaccuracies made in the report to Panel. The comments are summarised and addressed below.

| Submission by applicant | Officer response |
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| Paragraph 6.54 of the officer report is incorrect. The applicant provided officers with evidence relating to commercial viability. Those appraisals provide clear and robust evidence that reducing the scale of the proposed building by removing a top storey would have an untenable impact on the viability of the proposal. | The appraisals referred to were not submitted with this current planning application and so were not considered in the officer assessment. It should be noted that the appraisals were undertaken in 2015 and so not up to date. |
| This viability evidence is particularly important given the inference at paragraph 6.54 that the public benefits of the proposed development should be afforded less weight. | The point was being made that it is not considered it has been demonstrated that a scheme in the scale and form proposed is necessary. The scheme would cause less than substantial harm to the Conservation Area, and so this information could have been helpful in understanding if a scheme of a smaller scale or in a different form could have been achieved which had lesser or no harm to the Conservation Area. To be clear not having this justification on why a scheme of a smaller scale does not mean public benefits of the proposal should be afforded less weight. The public benefits put forward by the applicant have been considered and they are not considered to be public benefits of scale and significance that outweigh the identified harm to the Conservation Area. |

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| <p>The Panel report does not afford the appropriate level of weight to the public benefit that will be generated by the proposed development.</p> <p>The development could create up to 416 skilled, office positions and 200 short term, construction positions. The employment and associated wage and economic productivity that is generated by the development are clearly public benefits set out by the National Planning Practice Guidance.</p> | <p>It is for the decision maker to afford the weight to matters.</p> <p>There is a statutory requirement for the decision maker to ensure that special attention is paid to the desirability of preserving or enhancing the character or appearance of that area, as per the requirements of the Planning (Listed Buildings and Conservation Area Act), and this is supported by paragraph 132 of the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. There is a presumption against granting planning permission for development which causes harm to a heritage asset.</p> <p>Weight should be given to any public benefits of the proposal in accordance with paragraph 134 of the NPPF. In this case, it acknowledged that the scheme has the potential to provide significant economic benefits, which are public benefits, however, the Economic Impacts report submitted with the application are estimates of the potential economic benefits. It should also be considered that there is an existing office building on site which could provide employment benefits, which would offset potential economic benefits that are based on a gross area of office floorspace.</p> <p>Within paragraph 6.56 of the main report, where it states the benefits would not be to the public at large, this should state '<i>the economic benefits are not considered to be of a scale or magnitude which would override the statutory duty to preserve the character or appearance of the Conservation Area.</i>'</p> |
| <p>The proposal does represent a form of sustainable development and this should be acknowledged in the report. Whilst the applicant acknowledges there is an environmental strand to delivering sustainable development, it is accepted that the proposed development will have less than substantial harm on any heritage asset, conversely the proposed development accords directly with all other sustainable forms of development.</p> | <p>This approach taken by the applicant is not agreed with.</p> <p>There are 3 strands to sustainable development, as set out in the NPPF. The strands are economic, social and environmental. Under the environmental role, sustainable development contributes to protecting and enhancing our natural, built and historic environment. The development would cause less than substantial harm (which is harm) to the built and historic environment. As the development does not accord with the 3 strands, it is not considered to be sustainable development.</p> <p>The advantages and disadvantages of this scheme should not be weighed in the planning balance in accordance with paragraph 14 of the NPPG. The balancing exercise required by paragraph 134 of the NPPF is to give effect to the presumption against granting permission for development which harms the significance of the Heritage Asset. The public benefits would have to be very strong to outweigh this harm.</p> |

Comments from Consultees

2.2

| Comment | Officer response | Change to recommendation? |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|---------------------------|
| <p>Environmental Protection:</p> <p>Recommends the following planning conditions should planning permission be granted:</p> <ul style="list-style-type: none"> • Noise Emission Control • Noise Containment- providing acoustic measures • Hours for commercial delivery vehicles • Acoustic measures for aircraft noise • Contaminated land | <p>Noted, if planning permission was recommended for approval, these conditions would be imposed.</p> | <p>No</p> |

3. AMENDED REASON FOR REFUSAL

- 3.1** The proposal owing to its combined scale and shape creates a building of a large mass that would be out of keeping with the size of surrounding buildings and as such the building would appear overdominant and incongruous. The entrance to the proposed building, owing to its design would look at odds with the design of the rest of the building and at odds with the surrounding area. The proposal fails to preserve or enhance the character and appearance of the Conservation Area. The proposal would result in less than substantial harm to the character and appearance of the Conservation Area, and the public benefits are not considered to outweigh this harm. The proposal conflicts with S72 of the Planning (Listed Buildings and Conservation Areas Act) 1990, paragraphs 132 and 134 of the National Planning Policy Framework and with Policies DG1(3) and Policy CA2 (1, 2 and 3) of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).

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| Application No.: | 17/01019/FULL |
| Location: | Windsor Girls School Imperial Road Windsor SL4 3RT |
| Proposal: | Erection of 9 x 8m high external lighting columns. |
| Applicant: | Mrs Longworth-Krafft |
| Agent: | Mr Simon McNabb |
| Parish/Ward: | Windsor Unparished/Clewer East Ward |

If you have a question about this report, please contact: Adam Jackson on 01628 796660 or at adam.jackson@rbwm.gov.uk

