

NOTICE
OF
MEETING



MAIDENHEAD DEVELOPMENT CONTROL PANEL

will meet on

WEDNESDAY, 23RD NOVEMBER, 2016

at

7.00 pm

in the

COUNCIL CHAMBER - TOWN HALL,

TO: MEMBERS OF THE MAIDENHEAD DEVELOPMENT CONTROL PANEL

COUNCILLOR DAVID BURBAGE (CHAIRMAN)
COUNCILLOR DEREK WILSON (VICE-CHAIRMAN)
COUNCILLORS CLIVE BULLOCK, GERRY CLARK, DAVID COPPINGER,
MAUREEN HUNT, RICHARD KELLAWAY, PHILIP LOVE, DEREK SHARP,
ADAM SMITH, CLAIRE STRETTON AND LEO WALTERS

SUBSTITUTE MEMBERS

COUNCILLORS STUART CARROLL, PAUL BRIMACOMBE, CARWYN COX, JUDITH
DIMENT, MOHAMMED ILYAS, GEOFF HILL, MJ SAUNDERS, HARI SHARMA AND
LISA TARGOWSKA

Karen Shepherd
Democratic Services Manager
Issued: Tuesday, 15 November 2016

Members of the Press and Public are welcome to attend Part I of this meeting.

The agenda is available on the Council's web site at www.rbwm.gov.uk – if you are viewing this on the website and there are appendices you are unable to access, please contact the Panel Administrator **Shilpa Manek** 01628 796310, or democratic.services@rbwm.gov.uk

Fire Alarm - In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

Recording of Meetings – The Council allows the filming, recording and photography of public Council meetings. This may be undertaken by the Council itself, or any person attending the meeting. By entering the meeting room you are acknowledging that you may be audio or video recorded and that this recording will be available for public viewing on the RBWM website. If you have any questions regarding the council's policy, please speak to the Democratic Services or Legal representative at the meeting.

AGENDA

PART 1

ITEM	SUBJECT	WARD	PAGE NO
1.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence.		
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.		3 - 4
3.	<u>MINUTES</u> To confirm the part I minutes of the meeting of 26 October 2016.		5 - 8
4.	<u>PLANNING APPLICATIONS (DECISION)</u> To consider the Borough Planning Managers report on planning applications received. 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. http://www.rbwm.gov.uk/web/dc_public_apps.htm		9 - 44
5.	<u>ESSENTIAL MONITORING REPORTS (MONITORING)</u> To consider the Appeals Decision Report and Planning Appeals Received.		45 - 52
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LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

In accordance with the requirements of the Local Government (Access to Information) Act

1985, each item on this report includes a list of Background Papers that have been relied

on to a material extent in the formulation of the report and recommendation.

The list of Background Papers will normally include relevant previous planning decisions, replies to formal consultations and relevant letter of representation received from local societies, and members of the public. For ease of reference, the total number of letters received from members of the public will normally be listed as a single Background Paper,

although a distinction will be made where contrary views are expressed. Any replies to consultations that are not received by the time the report goes to print will be recorded as

“Comments Awaited”.

The list will not include published documents such as the Town and Country Planning Acts

and associated legislation, Department of the Environment Circulars, the Berkshire Structure Plan, Statutory Local Plans or other forms of Supplementary Planning Guidance,

as the instructions, advice and policies contained within these documents are common to

the determination of all planning applications. Any reference to any of these documents will be made as necessary under the heading “Remarks”.

STATEMENT OF THE HUMAN RIGHTS ACT 1998

The Human Rights Act 1998 was brought into force in this country on 2nd October 2000, and it will now, subject to certain exceptions, be directly unlawful for a public authority to act in a way which is incompatible with a Convention right. In particular, Article 8 (respect

for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of property) apply to planning decisions. When a planning decision is to be made however, there is further provision that a public authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest, and therefore much of this authority's decision making will continue to take into account this balance.

The Human Rights Act will not be referred to in the Officer's report for individual applications beyond this general statement, unless there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues.

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

Agenda Item 3

MAIDENHEAD DEVELOPMENT CONTROL PANEL

26.10.16

PRESENT: Councillors David Burbage (Chairman), Derek Wilson (Vice-Chairman), Clive Bullock, David Coppinger, Geoff Hill, Maureen Hunt, Richard Kellaway, Philip Love, Derek Sharp, Adam Smith and Leo Walters.

Officers: Tony Carr (Traffic & Road Safety Manager), Victoria Gibson (Development Management Team Manager), Jenifer Jackson (Head of Planning) and Shilpa Manek

94/15 APOLOGIES FOR ABSENCE

Apologies for absence received from Councillors Clark and Stretton. Councillor Hill was substituting.

95/15 DECLARATIONS OF INTEREST

Declarations of Interest were received from:

Councillor Burbage declared a personal interest as he was a Member of the Bray Parish Council and.

Councillor Coppinger declared a personal interest as he was acquainted with the applicants as the application was in his ward.

Councillor Hill declared a personal interest as he knew the applicants very well and would leave the Chamber during the item.

Councillor Walters declared a personal interest as he was a Member of the Bray Parish Council but was attending the meeting with an open mind.

Councillor Wilson declared a personal interest.

96/15 MINUTES

RESOLVED: That the Part I minutes of the meeting of the Maidenhead Development Control Panel held on 28 September 2016 be approved.

97/15 PLANNING APPLICATIONS (DECISION)

RESOLVED UNANIMOUSLY: That the order of business as detailed in the agenda be varied.

The Panel considered the Borough Planning Manager's report on planning applications and received updates in relation to a number of applications, following the publication of the agenda.

NB: *Updates were received in relation to planning applications marked with an asterisk.

Item 1 16/01449/FULL Kingfisher Cottage Spade Oak Reach Cookham Maidenhead SL6 9RQ	Replacement dwelling. <u>THIS ITEM WAS WITHDRAWN FROM THE AGENDA.</u>
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<p>*Item 2 16/01884/VAR</p> <p>Bears Copse Plough Lane West End Waltham St Lawrence Reading RG10 0NN</p>	<p><i>Erection of an agricultural barn (retrospective) as approved under planning permission 11/00341 (allowed on appeal) without complying with condition 1(use as agricultural purpose only) to remove the condition.</i></p> <p>The PANEL VOTED UNANIMOUSLY that the application be DEFERRED for one cycle to assess a recent appeal decision.</p> <p>The Officers recommendation was put forward by Councillor Hunt and seconded by Councillor Wilson.</p>
<p>*Item 3 16/01919/FULL</p> <p>Berkshire Henley Kent Somerset Sussex And Wiltshire Lodges Courtlands Maidenhead</p>	<p><i>Raising of roof to provide 11 flats comprising 10 No. one bedroom flats at Berkshire Lodge, Kent Lodge, Somerset Lodge, Sussex Lodge and Wiltshire Lodge (2 flats each) with associated bin and recycling storage and 1 No. two bedroom flat at Henley Lodge with new staircase enclosure to replace existing open stair, and front balustrade, railings and canopies to existing flats at Henley Lodge.</i></p> <p>Councillor Hill put forward a motion to refuse the officers recommendation and this was seconded by Councillor Hunt but this motion fell.</p> <p>The officers recommendation was put forward by Councillor Wilson and seconded by Cllr Love.</p> <p>Seven Councillors voted for the motion (Councillors Burbage, Bullock, Coppinger, Love, Smith, Walters and Wilson. Councillors Hill, Hunt and Sharp voted against the officers recommendation. Councillor Kellaway did not vote as he was not involved in the discussions).</p> <p>The PANEL VOTED that the application be PERMITTED as per the officer's recommendation.</p> <p>(Speakers: The Panel was addressed by Mr Anu Sharma and Mr Carl Bothma, Objectors and Mr Gary Hutchinson. Applicants Agent.)</p>
<p>*Item 4 16/01630/FULL</p> <p>Thames Auto Sales Oldfield Road Maidenhead SL6 1TH</p>	<p>Outline application with access and layout considered and other matters reserved (appearance, landscaping and scale) for the erection of 9 flats.</p> <p>Councillor Wilson put forward a motion to defer the application in order to carry out a sequential test. This was seconded by Councillor Hill.</p> <p>Three Councillors (Councillors Hill, Smith and Wilson) voted for the motion, Eight Councillors (Councillors Burbage, Bullock, Coppinger, Hunt, Kellaway, Love, Sharp and Walters) voted against</p>

	<p>the motion. The motion fell.</p> <p>The Officers recommendation to refuse the application was put forward by Councillor Hunt and seconded by Councillor Kellaway.</p> <p>The PANEL VOTED UNANIMOUSLY that the application be REFUSED as per the officer's recommendation.</p> <p>(Speakers: The Panel was addressed by Mr David Howells, Applicant).</p>
<p>Item 5 16/02503/FULL</p> <p><i>New Britwell 3</i> <i>Westmorland Road</i> <i>Maidenhead</i> <i>SL6 4HB</i></p>	<p>3 No. detached houses with off street parking following demolition of existing dwelling.</p> <p>The PANEL VOTED UNANIMOUSLY that the application be PERMITTED as per the officer's report with the removal of the permitted development rights classes A, B, C and E, given the layout of the plots such extensions/alterations may have a detrimental impact on neighbouring amenity and/or result in inadequate amenity space.</p> <p>The Officers recommendation was put forward by Councillor Love and seconded by Councillor Wilson.</p> <p>(Speakers: The Panel was addressed by Mr Andy Goodliffe, Objector and Mr Jake Collinge, Agent).</p>
<p>*Item 6 16/02624/FULL</p> <p>Linger In Spade Oak Reach Cookham Maidenhead SL6 9RQ</p>	<p><i>Detached house with integral boathouse, associated parking with car port and new access following demolition of existing dwelling.</i></p> <p>The PANEL VOTED UNANIMOUSLY that the application be REFUSED as per the officer's recommendation.</p> <p>The Officers recommendation was put forward by Councillor Kellaway and seconded by Councillor Love.</p> <p>(Speakers: The Panel was addressed by Mr Richard Scarf, Cookham Society).</p>
<p>*Item 7 16/02866/FULL</p> <p>Huston Cottage Moneyrow Green Holyport Maidenhead SL6 2ND</p>	<p>Proposed roof enlargement through the enclosure within the valley of the two existing pitched roofs.</p> <p>The PANEL VOTED that the application be PERMITTED, against the officer's recommendation for the reason that the proposed extension would not result in a disproportionate addition given the built up character of the area and infilling nature of the development.</p> <p>Secondly, the proposed development was considered better in design terms than the existing valley roof and more in keeping with the</p>

	<p>roof slopes of the area.</p> <p>The proposal therefore complied with Policies GB1, GB2, GB3, DG1 and H14.</p> <p>The conditions to be considered included:</p> <p>1)Time 2)Matching Materials 3) No PD rights Class B Reason – harm to the Green Belt and to protect neighbouring amenity from overlooking. 4) no side windows</p> <p>The motion to approve the application against officer recommendation was put forward by Councillor Coppinger and seconded by Councillor Burbage.</p> <p>(Speakers: The Panel was addressed by Mr Richard Thorley, Objector and Eric Stannard, on behalf of the Applicant).</p>
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98/15 ESSENTIAL MONITORING REPORTS (MONITORING)
The Panel noted the appeal decisions.

99/15 ENFORCEMENT REPORT
RESOLVED: That the enforcement notice be issued. This was proposed by Councillor Wilson and seconded by Councillor Kellaway.

The meeting, which began at 7.00 pm, ended at 8.55 pm

Chairman.....

Date.....

Agenda Item 4

ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

Maidenhead Panel

23rd November 2016

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APP = Approval
CLU = Certificate of Lawful Use
DD = Defer and Delegate
DLA = Defer Legal Agreement
PERM = Permit
PNR = Prior Approval Not Required
REF = Refusal
WA = Would Have Approved
WR = Would Have Refused

Item No.	1	Application No.	16/01884/VAR	Recommendation	PERM	Page No.	11
Location:	Bears Copse Plough Lane West End Waltham St Lawrence Reading RG10 0NN						
Proposal:	Erection of an agricultural barn (retrospective) as approved under planning permission 11/00341 (allowed on appeal) without complying with condition 1(use as agricultural purpose only) to remove the condition						
Applicant:	Mr Hall	Member Call-in:	Cllr Mrs Maureen Hunt	Expiry Date:	28 October 2016		
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Item No.	2	Application No.	16/03024/VAR	Recommendation	DD	Page No.	25
Location:	Old Linkside Shoppenhangers Road Maidenhead SL6 2QD						
Proposal:	Erection of 10 x 2 bed flats with access, parking, landscaping, and ancillary works following demolition of house of planning permission 14/00501 (allowed on appeal) without complying with condition 2 (approved drawings) to replace some of the approved drawings.						
Applicant:	Silver Mount Investments Limited	Member Call-in:	Not applicable	Expiry Date:	22 December 2016		
<hr/>							
Appeal Decision Report						Page No. 45	
Planning Appeals Received						Page No. 50	

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**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

23 November 2016

Item: 1

Application No.:	16/01884/VAR
Location:	Bears Copse Plough Lane West End Waltham St Lawrence Reading RG10 0NN
Proposal:	Erection of an agricultural barn (retrospective) as approved under planning permission 11/00341 (allowed on appeal) without complying with condition 1 (use as agricultural purpose only) to remove the condition
Applicant:	Mr Hall
Agent:	Mr T Rumble
Parish/Ward:	Waltham St Lawrence Parish/Hurley And Walthams Ward
If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk	

1. SUMMARY

- 1.1 This application was deferred at the October Panel for one cycle to assess the appeal decision in respect of application 14/01113.
- 1.2 The Council's solicitor advice remains unchanged, that based on the particular evidence available, there are no site-specific factors that constitute 'exceptional circumstances' that would make it necessary and reasonable to impose condition 1 requiring the barn to be used solely for agricultural purposes.

It is recommended the Panel grants planning permission.

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor M. Hunt if the application is to be recommended for approval at the request of the Parish Council with regard to the appeal decision. The condition was imposed by the Inspector and accepted by the applicant. Environmental impact concern regarding use of narrow rural Green Belt lane.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located to the south-west of the residential property of 'Bears Copse'. The area is characterised by open countryside with sporadic residential development.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/01113/PRA	Prior approval application for the change of use of the agricultural barn to B1 (business).	Prior approval required and refused. 02.06.14. Appeal dismissed. 27.04.15.
11/00341/FULL	Erection of an agricultural barn (retrospective).	Refused 06.04.11 Appeal allowed 05.03.12.
09/01356/AGDET	Notification of change of use from residential curtilage to agriculture and to determine whether prior approval is required to relocate an existing barn.	Approved 04.08.09.

- 4.1 The application seeks to remove condition 1 (use for agricultural purposes only) of 11/00341 (allowed on appeal).

5. EXPLANATION OF RECOMMENDATION

5.1 This application was deferred at the October Panel for one cycle to assess the appeal decision in respect of application 14/01113 (appeal reference 2226041). The Council's solicitor has provided the following advice:

5.2 "As part of the appeal in 2015 (reference 2226041), that Inspector concluded at paragraph 17 as follows:

'The provisions of Class R (and formerly Class M) were not in force at the time that condition 1 was written in March 2012. Had they been then matters might be otherwise, but I am considering the appeal before me with the condition as written and in relation to the statutory provisions in force at this time. Whether or not this condition should be changed in the light of the provisions of Class R is not before me'.

5.3 The implication of this paragraph is that, if there was a form of permitted development in existence analogous to the aforementioned Class R at the time of the restrictive condition being put in place in March 2012, the condition may not have been imposed. This is because the existence of Class R indicates an intention by Central Government to allow 'a freedom from detailed control which will be acceptable in the great majority of cases' (as outlined in the revoked Circular). It is expressly intended that agricultural buildings can, generally, be changed to A1, A2, A3, B1, B8, C1 and D2. The legal and regulatory framework has changed significantly in the time since the original 2012 decision.

5.4 I can appreciate the disquiet at the potential for this barn to be changed to a form of business. However this is a natural consequence of the changes to permitted development rights, and I do not consider that this application is the appropriate venue for an argument about the merits of those changes.

5.5 The existence of Class R has an effect on the consideration of this application. However my view is that this only assists the applicant. Because the format of the condition is to restrict all other uses, and this is not specific, the introduction of new uses which may be applicable or acceptable serves to highlight the difficulty with imposing blanket conditions.

5.6 There are no site-specific factors which justify the imposition of a condition restricting permitted development rights (and which would pass the test for necessity). I would therefore suggest that, on balance, it is more reasonable to conclude that exceptional circumstances are not made out."

6. CONSULTATIONS CARRIED OUT

6.1 As per section 6 of the October Panel report in Appendix A.

7. APPENDICES TO THIS REPORT

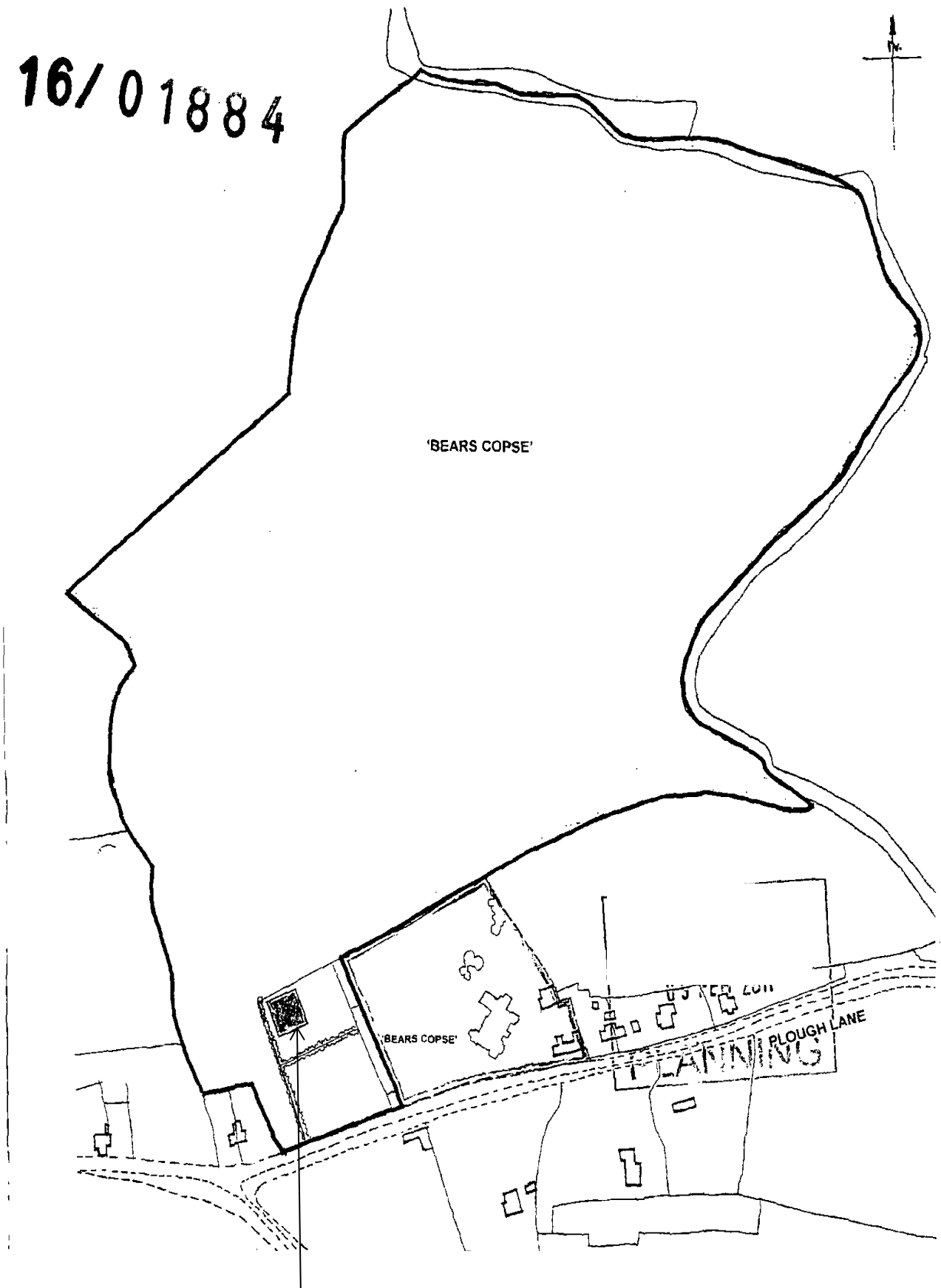
- Appendix A - Copy of October Panel report for 16/01884 with appendices.
- Appendix B - Copy of appeal decision in respect of 14/01113.

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

8. NO CONDITIONS ARE RECOMMENDED

1 No conditions.

16/01884



Location of barn

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**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

26 October 2016

Item: 2

Application No.:	16/01884/VAR
Location:	Bears Copse Plough Lane West End Waltham St Lawrence Reading RG10 0NN
Proposal:	Erection of an agricultural barn (retrospective) as approved under planning permission 11/00341 (allowed on appeal) without complying with condition 1 (use as agricultural purpose only) to remove the condition
Applicant:	Mr Hall
Agent:	Mr T Rumble
Parish/Ward:	Waltham St Lawrence Parish/Hurley And Walthams Ward
If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk	

1. SUMMARY

- 1.1 Based on the particular evidence available, there are no site-specific factors that constitute 'exceptional circumstances' that would make it necessary and reasonable to impose condition 1 requiring the barn to be used solely for agricultural purposes.

It is recommended the Panel grants planning permission with the conditions listed in Section 8 of this report:

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor M. Hunt if the application is to be recommended for approval at the request of the Parish Council with regard to the appeal decision. The condition was imposed by the Inspector and accepted by the applicant. Environmental impact concern regarding use of narrow rural Green Belt lane.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located to the south-west of the residential property of 'Bears Copse'. The area is characterised by open countryside with sporadic residential development.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
11/00341/FULL	Erection of an agricultural barn (retrospective).	Refused 06.04.11 Appeal allowed 05.03.12.
09/01356/AGDET	Notification of change of use from residential curtilage to agriculture and to determine whether prior approval is required to relocate an existing barn.	Approved 04.08.09.

- 4.1 The application seeks to remove condition 1 (use for agricultural purposes only) of 11/00341 (allowed on appeal).

5. EXPLANATION OF RECOMMENDATION

- 5.1 The key issue for consideration is whether condition 1 of 11/00341 (allowed on appeal) is reasonable and necessary.

- 5.2 Condition 1 states that: *“Notwithstanding the terms of the application, including the Design and Access Statement, the building hereby permitted shall be used for no other purposes than uses associated with agriculture.”* In terms of reasoning the Inspector concluded, at paragraph 37 that: *“For the removal of doubt it is also necessary to impose a condition restricting the use of the barn to uses associated with agriculture.”* At the time of the appeal decision on 05 March 2012, the Inspector considered that this restrictive condition was necessary in the circumstances.
- 5.3 Section 73 of the *Town and Country Planning Act 1990* allows an applicant to seek planning permission for the development of land without complying with a condition. Planning Practice Guidance (PPG) explains the approach that local planning authorities should take in relation to section 73 applications, at paragraph 31: *“In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.”*
- 5.4 The condition must be assessed against the test set out in the NPPF. The implementation of the NPPF postdates the Inspector’s decision in this case. Each of the tests must be satisfied each time a decision to grant permission subject to conditions is made. Paragraph 206 of the NPPF explains that: *“Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”* “Necessary” means that the condition must be required in order to make the development acceptable in planning terms. The National Planning Policy Guidance (NPPG), at paragraph 004 of the section ‘Use of Planning Conditions’, asks: *“Will it be appropriate to refuse planning permission without the requirements imposed by the condition? A condition must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms. If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity.”* The local planning authority must therefore consider whether there is a ‘definite planning reason’ for the imposition of this condition.
- 5.5 NPPG advice is also particularly restrictive in relation to conditions restricting the future use of permitted development rights, advising at paragraph 17 of the section ‘Use of Planning Conditions’: *“Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use? Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted development rights across a defined area.”*
- 5.6 The Inspector’s reason for the imposition of the condition is found at paragraph 24 of the decision letter: *“As reasoned above there is no evidence to dispute that the barn was initially used solely for the purpose of agriculture. If the use is so restricted by condition and by upholding Appeal B the barn would not be inappropriate development in the Green Belt.”* It was therefore clearly contemplated by the Inspector that the limiting condition was necessary to make the development acceptable in Green Belt terms. This does constitute a ‘definite planning reason’ for the purposes of the NPPF. However, for exceptional circumstances to exist there needs to be a greater degree of harm than inappropriate development in the Green Belt alone.
- 5.7 In this case the use of the land for non-agricultural use would impact on openness and would conflict with one of the purposes of including land in the Green Belt, namely to assist in safeguarding the countryside from encroachment (as found by the Inspector in 2012, at paragraph 11). It is also noted that the Parish Council’s comments that the condition is considered ‘necessary’ due to the quiet residential location of the lane and the existence of the new flexible use class. However as established above, ‘necessary’ refers to planning considerations which would otherwise result in the refusal of an application, and are therefore necessary to make the application acceptable. Neither of those points would have that effect.

- 5.8 The original officer's report associated with application 11/00341 identified the main issues as being the impact on the character and appearance of the area (identified by the Inspector and conditioned) and the impact on the Green Belt (which as established above, is not sufficient to constitute exceptional circumstances in isolation). However, for exceptional circumstances to exist there would need to be firm and specific reasons, based on particular evidence which indicates how and what site-specific factors constitute 'exceptional circumstances' for the purposes of the NPPF. There is no such evidence in this case.
- 5.9 It is considered that condition 1 fails the test for necessity. Although it was considered necessary in 2012, since then the NPPF and NPPG have changed the recommended approach a local planning authority should take in relation to conditions restricting the future use of permitted development rights.
- 5.10 Overall and on balance, it is not considered that there are exceptional circumstances which would justify the condition and render it necessary.

6. CONSULTATIONS CARRIED OUT

Comments from interested parties

7 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 14th July 2016.

1 letter was received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. Should uphold the planning condition to avoid any opportunity for creeping business development.	5.5.

Consultees

Consultee	Comment	Where in the report this is considered
Waltham St. Lawrence Parish Council	<p>The Parish Council STRONGLY OBJECT for these reasons:</p> <p>1. The NPPF of March 2012 postdates the imposition of removal of PDR arising out of 09/01823 decision notice dated 3.11.09 and 11/00651/ENF issued 28.7.11. <i>Para 203 anyway refers to LPAs not to the Inspectorate.</i></p> <p>2. In para 37 of the 2012 Appeal decision the condition was imposed by the Inspector: <i>"for the removal of doubt it is also necessary to impose a condition restricting the use of the barn to uses associated with agriculture"</i>.</p> <p>3. Importantly in para 23 of the 2012 Appeal the appellant: <i>"was prepared to accept a condition restricting the use of the barn solely for purposes associated with agriculture"</i> (in order to retain the relocated barn).</p> <p>It is indeed 'necessary', 'relevant' and 'reasonable' to impose this condition in view of its Plough (i.e. agricultural) Lane quiet residential location and the new 'flexible' R uses class where B1 and B8 use would be especially objectionable. In addition, and relevant to a s.73 application, the view from the elevated footpath 13 would be severely compromised in that regard – as it is the tree planting condition on the northern boundary is incomplete after four years.</p>	5.1 – 5.9.

7. APPENDICES TO THIS REPORT

- Appendix A - Site location plan

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPFf.

In this case the issues have been successfully resolved.

8. CONDITIONS IF PERMISSION IS GRANTED

1. No conditions.

Appeal Decision

Site visit made on 27 March 2015

by Helen Heward BSc Hons MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 April 2015

Appeal Ref: APP/T0355/A/14/2226041

Barn, Bears Copse, Plough Lane, West End, Waltham St Lawrence, Berkshire, RG10 0NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Phil Hall against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 14/01113, dated 7 April 2014, was refused by notice dated 2 June 2014.
 - The development proposed is a change of use of agricultural building to B1.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant seeks prior approval for a change of use of an existing agricultural building to a use falling within Class B1 (business) of the Town and Country Planning (Use Classes) Order as Amended (the UCO). The Council refused the application because "*Permitted development rights under Class M are removed under Condition 1 of planning approval 11/00341/FULL*".
3. The Town and Country Planning (General Permitted Development) (England) Order 2015 came into effect on 15 April 2015 (the GPDO 2015). The provisions of Part 3, Class M of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) are provided in Class R of the GPDO 2015, but there is no change in the effect of the provisions so far as this appeal is concerned and I have determined the appeal with regard to the GPDO 2015.
4. Class R grants planning permission for the change of use of an agricultural building to a flexible use, which includes a use falling within Class B1 (business), subject to the prior approval of the local planning authority. However, Article 3(4) states that: "*Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order*".

Main Issue

5. The main issue is whether condition 1 of planning permission 11/00341/FULL excludes permitted development rights under the provisions of Part 3, Class R of the GPDO 2015.

Reasons

6. Condition 1 states that *"Notwithstanding the terms of the application, including the Design and Access Statement, the building hereby permitted shall be used for no other purposes than uses associated with agriculture"*. The planning permission, for the erection of a barn, was granted on appeal under s78 of the Town and Country Planning Act 1990 (the Act) (APP/T0355/A/11/2160399). At the same time the Inspector considered an application deemed to have been made under s177(5) of the Act for development already carried out; namely the erection of a building (APP/T0355/C/11/2160483). The Inspector's considerations of the merits in paragraphs 19 to 37 of his decision letter are relevant to this appeal.
7. The Council had served separate enforcement notices alleging the unauthorised erection of a building and the unauthorised use for the storage and maintenance of historic racing cars and tractors and the unauthorised material change of use of the land to non-agricultural use by storage and maintenance of historic racing cars and tractors unconnected with the use of the land for agricultural purposes (APP/T0355/C/11/2160485). At the hearing the appellant submitted that the barn had been built for the purposes of agriculture, but accepted that the barn had been used for other non-agricultural purposes and that his intention had been that, from time to time and when space permitted it would be used partially for the storage of his racing cars. A design and access statement submitted with application 11/00341/FULL indicated an intention to occasionally store 2 classic cars in the barn.
8. In the decision letter the Inspector noted that new buildings for the purposes of agriculture are not inappropriate development in the Green Belt (paragraph 21), but that the construction of a new building for the purpose of storage of racing cars would be inappropriate (paragraph 22). He also reported that *"At the hearing the appellant acknowledged that it was a mistake to propose to store, or to actually store, the cars in the barn but stressed that the purpose of the barn had always been the secure storage of agricultural machinery and hay as 'haylage'..."* and that the appellant confirmed that *"he was prepared to accept a condition, on any grant of planning permission, restricting the use of the barn solely to purposes associated with agriculture"* (paragraph 23). The Inspector went on to note that if the use was so restricted by condition the barn would not be inappropriate development in the Green Belt (paragraph 24) and that *"For the removal of doubt it is also necessary to impose a condition restricting the use of the barn to uses associated with agriculture"* (paragraph 37). However, there is no express reference to the exclusion of the statutory provisions of a development order in condition 1.
9. Both parties cite legal judgements in support of their submissions as to whether or not condition 1 excludes the GPDO 2015 provisions in respect of change of use under Part 3, Class R. The appellant has drawn my attention to Carpet Décor (Guildford) Ltd v Secretary of State for the Environment and Guildford

Borough Council 1981 (JPL 806) (Carpet Décor) and Dunoon Developments Ltd v Secretary of State for the Environment and Poole Borough Council (Dunoon). The Council refers to Royal London Mutual Insurance Society Ltd v Secretary of State for Communities and Local Government (Royal London).

10. The Carpet Décor judgement indicates that to exclude such statutory provisions there needs to be 'express exclusion' of their effect or for it to be in 'unequivocal terms'. In that case the description of the development was in the terms '*as store for papers of National Provincial Bank Ltd. and as residence for caretaker in employ of said Bank, but for no other type of store or for any other person or corporation*'. The Judge held that as a general principle where a local planning authority intended to exclude the operation of the UCO or the General Development Order (GDO), they should say so by the imposition of a condition in unequivocal terms and, that in the absence of such a condition, it must be assumed that those Orders will have effect by operation of law. However, the Carpet Décor case was different from this appeal where there is a condition to be considered.
11. In Dunoon there was a specific condition limiting use. It read '*that the use of the proposed premises shall be limited to the display, sale and storage of new and used cars – together with an administrative centre and the preparation of vehicles including facilities for cleaning, polishing and for such essential auxiliaries as general routine inspection of engine, brakes, steering and lighting.*' The reason for the condition was '*to retain the amenities of the high class, predominantly residential area*'. The Court of Appeal Judge noted that the case turned on the interpretation of the word limited in its context. He concluded that the word limited was directed to the construction of the condition and not addressed to the question of whether the permission should be excluded from the operation of a general development order (GDO). The condition did not expressly exclude a GDO and the words themselves in their context did not imply exclusion. There had to be something more than a grant of planning permission for a particular use to exclude the application of a GDO.
12. In the case of the Royal London a condition stated that the retail consent "*shall be for non-food sales only in bulky trades normally found on retail parks which are furniture, carpets, DIY, electrical goods, car accessories, garden items and other such trades as the Council may permit in writing*". Although the case concerned changes within a particular use class, it is relevant to this appeal because Royal London Mutual Insurance Society Ltd argued that the condition did not exclude the operation of the UCO because in order to do so, the condition must impose a restriction in clear and unequivocal terms. The Judge held that the condition was a clear restriction on the sale of food and 'impliedly' excluded the exercise of the right under the UCO. Three factors led to this conclusion, firstly the use of the word 'shall' in the condition which did not admit any discretion, secondly the use of the word 'only' and thirdly the listing of the permitted trades with a requirement that other trades required the authority's consent.
13. The principle of the use of a building is usually set by the description of development and the grant of planning permission, and Section 75 (3) of the Act provides that if no purpose is specified, the permission shall be construed as including to use the building for the purpose for which it is designed. This building has the appearance of a barn designed for the purposes of agriculture.

However, in this case the phrase *'Notwithstanding the terms of the application, including the Design and Access Statement'* in condition 1 clarifies that the use of this building is not set by the description of development provided in the application documents only.

14. The Royal London decision indicates that it is not necessarily essential for the condition to expressly reference a GDO. Condition 1 includes the words *'shall be used for no other purposes than associated with agriculture'*. There is nothing to say that the Inspector considered that changes of use permitted by the GPDO 2015 would be excluded from this, or that the use of the wording *'associated with'* agriculture implied flexibility. On the contrary such interpretations and flexibility would be at odds with the phrase, which is both precise and emphatic, and includes the word *'shall'*, a word which the Judge found did not admit discretion in the Royal London case.
15. In Dunoon, although the Judge noted no express exclusion of the GDO, he also went on to say there was no implied exclusion. Therefore, although a GDO was not expressly referred to in condition 1 or in the Inspector's decision letter, it is appropriate to consider if it was implied. When the wording of condition 1 is read in the context of the reasoning in the Inspector's decision letter it is evident that it was significant that the building was within the Green Belt, had been used for other non-agricultural uses, and that the Design and Access Statement indicated an intended occasional non-agricultural use. Having regard to national Green Belt policy (in PPG2 at the time) he reasoned that the building would be inappropriate development in the Green Belt if used for the other uses, but would not be inappropriate development if it was a building for agricultural purposes. It is therefore clearly implied in the Inspector's reasoning that he intended condition 1 to do more than merely clarify, or avoid doubt over the authorised use. When read as a whole, and particularly paragraphs 23 and 24, the decision indicates clearly that the Inspector intended condition 1 to exclude other uses by restricting the use of the building *'solely'* to uses for purposes associated with agriculture.
16. Given that the Inspector's considerations included uses not-associated with agriculture, I also find the meaning of the phrase *'uses associated with agriculture'* is plain. I am not persuaded that the Council's opinion that a list of possible agricultural related industrial uses for the building would fall with Class B1 demonstrates a lack of clarity. Whether or not such uses would be associated with agriculture would require judgements based upon the specific facts of each proposal and could be clarified by an application for a lawful development certificate under s191 of the Act.
17. The provisions of Class R (and formerly Class M) were not in force at the time that condition 1 was written in March 2012. Had they been then matters might be otherwise, but I am considering the appeal before me with the condition as written and in relation to the statutory provisions in force at this time. Whether or not the condition should be changed in the light of the provisions of Class R is not before me. Equally, I do not consider relevant to this appeal an argument that the conditions of Schedule 2, Part 6 of the GPDO 2015 for the erection of an agricultural building would be less restrictive than condition 1. Both of these matters would, in the first instance, be for the local planning authority to consider as an application under s73 of the Act.

18.I conclude that condition 1 is intended to have the effect of limiting the use of the building without discretion, and that the wording is sufficiently clear, precise and emphatic to reasonably and unequivocally imply exclusion of the provisions of the GPDO 2015 in respect of changes of use.

Conclusion

19.Having regard to all matters raised, including the objections from third parties, I conclude that condition 1 of planning permission 11/00341/FULL excludes the provisions of Part 3, Class R of the GPDO 2015 and the proposal is for a change of use of a building which would be contrary to the provisions of condition 1. Therefore, an application for planning permission is required for the proposed use. Such an application would be for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO 2015. Accordingly, the appeal is dismissed.

Helen Heward

INSPECTOR

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**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

23 November 2016

Item: 2

Application No.:	16/03024/VAR
Location:	Old Linkside Shoppenhangers Road Maidenhead SL6 2QD
Proposal:	Erection of 10 x 2 bed flats with access, parking, landscaping, and ancillary works following demolition of house of planning permission 14/00501 (allowed on appeal) without complying with condition 2 (approved drawings) to replace some of the approved drawings.
Applicant:	Silver Mount Investments Limited
Agent:	Mr Robert Lawrie
Parish/Ward:	Maidenhead Unparished/Oldfield Ward
If you have a question about this report, please contact: Victoria Gibson on 01628 685693 or at victoria.gibson@rbwm.gov.uk	

1. SUMMARY

- 1.1 This application is seeking permission to vary the previously approved planning permission in order to allow some minor design changes to be made to the scheme. The proposed bulk and size of the development remains the same. The changes proposed include minor design changes to the roof form and fenestration details.
- 1.2 The previous application was approved at appeal as the Inspector considered that it would not harm the character and the appearance of the area, neighbouring amenity or highway safety. These minor design changes do not impact or alter the Inspector's conclusions. Neither have there been any material changes in policy which would result in a different decision being reached. Furthermore, given that the granting of this variation does not extend the amount of time the developer has to implement the permission it is not considered necessary to update the bat surveys.

It is recommended the Panel authorises the Head of Planning:

To grant planning permission with the conditions listed in Section 10 of this report and subject to the completion of a Deed of Variation to secure the necessary infrastructure improvements as agreed under application 14/00501.

To refuse planning permission if a satisfactory Deed of Variation is not completed by 15th December 2016, unless the Head of Planning and applicant have agreed an extension of time, for the reason that the proposal would put additional pressure on local infrastructure.

2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended as the application being varied was previously refused permission by the Maidenhead Planning Panel but allowed at appeal; such decisions can only be made by the Panel.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 This site lies on the eastern side of Shoppenhangers Road and is set back from the edge of the road by a large grass verge. It is occupied by a 2 storey brick built house that is accessed via the access road to the north of the site that is off Shoppenhangers Road. To the rear of the site are three large flatted developments. To the south of the site is a development of detached houses within a cul-de-sac. The character of the area is predominately residential which due to its sustainable location has been extensively redeveloped with apartment blocks.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/00501	Erection of 10 x 2 bed flats with access, parking, landscaping, and ancillary works following demolition of house.	Permitted at Appeal 02.04.2015.
07/03284	Construction of 10 flats with parking.	Withdrawn 21.10.2008.

4.1 As previously approved, planning permission is sought to demolish the existing house and replace it with a block of 10 x 2 bed apartments. Vehicular access to the development will be from Shoppenhangers Road. The car parking area for 15 vehicles will be at the front of the site behind a wall that will form the west boundary. A bike and bin store are proposed within the north east corner just beyond the parking area. The entrance into the existing site off of the access road that lies to the north of the site will be for pedestrian use only.

4.2 The building's siting will be as approved which is no further forward than the neighbouring building, 'Broomfield', that lies to the north east of the application site. The overall depth of the building will be as approved which is around 26m and it will be 24m at its widest. It will also remain a 2.5 storey high building with a maximum height of 10.3m (excluding chimneys). The new building will have a traditional appearance to reflect the existing building; it will have a brick base, tile hanging and timber to the facades with a plain tiled roof.

4.3 The applicant is now seeking to vary the approved plans condition to allow the following minor changes to be made:

Front Elevation – 2 front dormers reduced in size, roof light repositioned, windows and doors slightly realigned, side dormer roof reduced, change to porch area and at second floor on the left hand gable the patio doors are no longer recessed.

South Elevation (side) - 2 triangular dormers removed and replaced with roof lights and one additional second floor window.

North Elevation (side) – Dormer window and 2 roof lights repositioned, insertion of one additional roof light and slight change to roof form towards rear of building. First floor window on the left hand side has been removed and one of the curved brick walls has been removed at ground floor level.

Rear Elevation – Dormer and roof light repositioned, additional roof light and ground floor window changed to a door. Boarding and render has been removed from the left hand gable and the doors with side lights at ground and first floor below the dormer have changed to doors with a brick pier and single window

Generally

First floor windows are shallower and glass balconies and privacy screens have been introduced.

Amended plans have been submitted at the request of officer denoting the windows that are to be obscure glazed as per the previously approved plans, and to also denote on the plans that the balcony screens will also be obscurely glazed. These plans also re-label the side elevations correctly.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 National Planning Policy Framework Sections 6 and 7.

Royal Borough Local Plan

5.2 The main strategic planning considerations applying to the site and the associated policies are:

	Within settlement area	Highways and Parking	Protected Trees
	✓	✓	✓
Local Plan	DG1, H10, H11	P4, T5	N6

These policies can be found at:

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

Other Local Strategies or Publications

5.3 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment - view at:
- RBWM Parking Strategy - view at:

More information on these documents can be found at:

https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are all as considered by the appeal Inspector and a copy of his report is contained in appendix A. The changes referred to in paragraph 4.3 do not impact or change the Inspectors conclusions.

6.2 With regard to overlooking there is one additional window proposed in each side elevation. The additional roof light in the southern elevation would not result in any increased overlooking given that it is required by condition 17 to have a cill level no lower than 1.7m above finished floor level. The side window in the northern elevation results in no additional overlooking than the dormers previously approved that are now proposed to be replaced by roof lights. Furthermore there is no change to condition 17 which requires all first and second floor windows in the south elevation to have cill heights of at least 1.7m above finished floor level and for no additional windows to be inserted without the prior approval of the Local Planning Authority in either side elevation.

7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

7.1 The application proposes a new residential development and therefore would be liable for a Community Infrastructure Levy contribution. Given that there is no additional floor space proposed above what was previously approved under application 14/00501 there would in this instance be no tariff payable for this development. However, a deed of variation is to be completed in order to secure the developer contributions as per the original permission 14/00501.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

30 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 27th September 2016 application was advertised in the Maidenhead and Windsor Advertiser on 6th October 2016.

1 letter of objection has been received from the Linkside Residents Association. They maintain their original objection to the development regarding over development of the site, harm to amenities and highway concerns. With regard to the current changes objections are raised to the change of railings to glass panels on the balconies as they will now be more open, exposed and intrusive.

Other Consultees

Consultee	Comment	Where in the report this is considered
Highways	No objection - as per application 14/00501.	Noted.
Trees	No objection - as per application 14/00501.	Noted.
Lead Local Flood Authority	No objections – the removal of this condition does not impact surface water drainage.	Noted.

9. APPENDICES TO THIS REPORT

- Appendix A - Inspectors appeal decision
- Appendix B - Site location plan and site layout
- Appendix C - Approved and Proposed Elevations

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPFF.

In this case the issues have been successfully resolved.

10. CONDITIONS IF PERMISSION IS GRANTED.

1. The development hereby permitted shall be commenced by 2nd April 2017.
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with following plans: 403-01, 403-02, 403-03, 403-04, 403-05, 403-06, 403-07, 167/03, 1100 rev D.
Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.
3. The development shall be carried out in accordance with the materials schedule (rev -) as submitted and approved under application 16/02829/CONDIT.
Reason: In the interests of the visual amenities of the area. Relevant Policy - Local Plan DG1
4. The development shall be carried and maintained in accordance with the agreed slab levels as shown on drawing 403-01 and approved under application 16/02829/CONDIT.
Reason: In the interest of the visual amenities of the area. Relevant Policy Local Plan DG1.
5. For the purposes of this condition a 'retained tree' is one shown on drawing no. 1100 Rev D. The erection of fencing for the protection of any retained tree and any other protection specified shall be undertaken in accordance with the Method Statement for the protection of existing trees in the Tree Condition Survey by Goodger Design Associates before any equipment, machinery or materials are brought on to the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. Ground levels the protected areas shall not be altered, nor shall any excavation be made, nor anything stored or placed within them.
Reason: To protect trees which contribute to the visual amenities of the site and surrounding

area. Relevant Policies - Local Plan DG1, N6.

6. No tree or hedgerow shown to be retained in drawing no. 1100 Rev D shall be cut down, uprooted or destroyed, nor shall any retained tree be lopped or topped other than in accordance with the approved plans and particulars or without the prior written approval of the Local Planning Authority, until five years from the date of occupation of the building for its permitted use. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 Tree work. If within 5 years any retained tree is removed, uprooted or destroyed or dies, a replacement tree of the same size and species shall be planted in the immediate vicinity.
Reason: In the interests of the visual amenities of the area. Relevant Policies - Local Plan DG1, N6.
7. The development shall be implemented in accordance with the soft and hard landscaping details as shown on drawing 403-01 and 167/03 as approved under application 16/02829/CONDIT subject to the areas of hard standing being permeable. These agreed works shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, shown on the approved landscaping plan that tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
Reason: To ensure a form of development that maintains, and contributes positively to, the character and appearance of the area. Relevant Policies - Local Plan DG1.
8. The measures for sustainable design and construction and Lifetime Homes set out in the Design and Access Statement shall be implemented prior to the first occupation.
Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with the Council's Sustainable Design and Construction Supplementary Planning Document.
9. Notwithstanding Condition 8, no development shall commence until details of the construction of the photo voltaic panels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenity of the area and to ensure renewable energy resources are incorporated into the development to comply with the Council's Sustainable Design and Construction Supplementary Planning Document. Relevant Policies - Local Plan DG1
10. The development shall be implemented in accordance with the construction management method statement and plan as submitted and approved under application 16/02829/CONDIT unless otherwise agreed by the Local planning Authority.
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5.
11. No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with the approved drawing. The parking and turning space shall be kept available for parking and turning thereafter.
Reason: To ensure that the development is provided with adequate parking facilities in order to reduce the likelihood of roadside parking which could be detrimental to the free flow of traffic and to highway safety, and to facilitate vehicles entering and leaving the highway in forward gear. Relevant Policies - Local Plan P4, DG1.
12. Prior to the commencement of development a scheme for the operational management of facilities to be provided for the storage and emptying of refuse and recycling bins shall have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be provided prior to first occupation and retained thereafter and managed for the lifetime of the development.
Reason: To enable satisfactory refuse collection to take place in the interests of highway safety and convenience. Relevant Policies - Local Plan T5

13. Prior to first occupation of the development the covered and secure cycle storage facilities shall be provided in accordance with the approved drawings and shall thereafter be kept available for the storage of cycles.
Reason: To ensure that the development is provided with adequate cycle parking facilities in order to encourage the use of alternative modes of transport. Relevant Policies - Local Plan T7, DG1.
14. Prior to first occupation of the development the access shall be constructed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be retained.
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5, DG1.
15. Prior to first occupation of the development the visibility splays shown on the approved drawings shall be provided. The areas within these splays shall be kept free of all obstructions to visibility above a height of 0.6 metres from the surface of the carriageway.
Reason: In the interests of highway safety. Relevant Policies - Local Plan T5.
16. There shall be no external lighting on the site other than in accordance with a scheme of lighting which shall have first been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the residential amenities of surrounding occupiers. Relevant Policies - Local Plan DG1, NAP3 and H10.
17. The first and second floor windows in the southern elevation shall have a cill level that is a minimum of 1.7m above the finished internal floor level. No further window(s) shall be inserted at first or second floor level in the side elevations of the building without the prior written approval of the Local Planning Authority.
Reason: To prevent overlooking and loss of privacy to neighbouring occupiers. Relevant Policies - Local Plan H11.
18. The proposed scheme shall be carried out in accordance with the proposed bat mitigation measures as detailed in the Bat Emergence Survey dated May 2014 produced by John Wenman Ecological Consultancy.
Reason: To safeguard protected species. Relevant Policies - NPPF

Appeal Decision

Site visit made on 17 February 2015

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02/04/2015

Appeal Ref: APP/T0355/A/14/2219582

Old Linkside, Shoppenhangers Road, Maidenhead, Berkshire, SL6 2QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Silver Mount Investments Limited against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 14/00501, dated 13 February 2014, was refused by notice dated 9 May 2014.
 - The development proposed is demolition of existing house and garage and erection of a block of 10 flats with access, parking, cycle and bin stores, landscaping and ancillary works.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and garage and erection of a block of 10 flats with access, parking, cycle and bin stores, landscaping and ancillary works at Old Linkside, Shoppenhangers Road, Maidenhead, Berkshire, SL6 2QD in accordance with the terms of the application Ref 14/00501, dated 13 February 2014, subject to the attached schedule of conditions.

Procedural Matters

2. As part of the appeal process the appellant submitted an additional survey and further information in respect of bats and proposed mitigation¹. The Council has confirmed that the proposed mitigation could be secured by a planning condition and on that basis has confirmed that the third reason for refusal has been resolved.
3. A signed and completed S106 Unilateral Undertaking (UU) has been submitted by the appellant. It would secure contributions towards infrastructure provision. Further comments were received from the appellant with regard to the requirements of the UU, and the Council were given the opportunity to respond to those comments. I return to this matter later.

Main Issue

4. The main issue in this appeal is the effect on the character and appearance of the area and upon the living conditions of occupiers of neighbouring properties with particular regard to outlook and privacy.

¹ Bat Emergence Survey, John Wenman Ecological Consultancy, Appellant's Appendix 6.

Reasons

5. The appeal site, Old Linkside, is a large mature detached dwelling within a generous plot, set well back from the highway, and located on the eastern side of Shoppenhangers Road in an area which is predominantly residential in character.
6. At the time of my visit to the appeal site and the surrounding area, particularly along Shoppenhangers Road, I saw that the area comprises mainly houses and some larger flatted developments. In the immediate locality the appeal site is bordered by detached 2 storey houses on either side, although one (Broomfield) is separated by an access drive leading to one of the three large flatted developments (Linkside) to the rear. Given these factors, I consider that the prevailing housing typology which characterises both the immediate and wider surrounding area is best described as a mixture of 2 storey houses and flatted developments.
7. The Council does not dispute that the site would be an acceptable location for redevelopment for housing in principle. The proposed development would consist of the replacement of the existing large detached dwelling and garage with a single block of 10 two bedroom flats, each having a private balcony or patio, and set behind a front access and parking area.
8. Due to the accommodation of the second floor flats into the pitched and gabled roof form, the overall height of the 2.5 storey building would not be out of scale with surrounding properties. Although the eaves height would be higher than the 2 neighbouring properties on either side, I consider that the roof form and staggered frontage would moderate and integrate the overall mass of the building such that it would sit comfortably with the houses either side and in street scene views. In addition, there would also be sufficient spacing between the building and its neighbours to the side and rear, such that it would be compatible with the spacing I saw between other properties in the area.
9. The building would be internally and vertically divided around a central lobby area on each floor such that 3 of the flats would be located in the southern element, with the other 6 flats located in the northern element nearest to Broomfield. The front elevation of the northern element of the building would not project forward of Broomfield, although it would project marginally forward of the neighbouring dwelling (1 Foxborough Court) to the south. However, I consider that it would not be harmful to outlook from that property due to the staggered southern element of the proposed building being set further back.
10. The rear elevations and part of the side elevations would project further back than the 2 neighbouring properties either side. However, given that I have found that the building's height would not be out of scale, together with the plot size, separation distances, fences, walls and existing boundary trees and planting, I consider that there would be no unacceptable impact on the rear outlook of those 2 properties, or upon the character and appearance of the area.
11. In addition, the use of privacy panels to balconies, obscure glazing, high level windows and roof lights to rooms in the side elevations would prevent any significant overlooking and loss of privacy to Broomfield and 1 Foxborough Court. Also, taking account of the height of the proposal, the rear boundary wall and planting, and the intervening distance between the proposal and

Linkside to the rear, I consider that there would be no significant harmful impact on the outlook or privacy of occupiers of that property.

12. I note the Council's concern regarding the size and appearance of the proposed hard-surfacing for parking and turning, and the material increase in traffic. However, the extent, layout and appearance of the parking and turning area, together with the expected increase in traffic, would not be incongruous with other flatted developments along Shoppenhangers Road, and the proposed parking area would be an appropriate level of parking provision for the 10 flats. Consequently, it would not result in harm to the character and appearance of the area I have previously described.
13. In conclusion, drawing all of the above factors together, I consider that with regard to the height, scale and siting of the building and the provision and use of the parking area, the proposed development would be compatible with the street scene and the surrounding area. As such, it would not result in a cramped or overly intrusive form of development. In addition, it would not result in any significant harm to the living conditions of occupiers of neighbouring properties with regard to outlook and privacy.
14. As such, the proposed development would accord with the requirements of Policies DG1, H10 and H11 of the Royal Borough of Windsor and Maidenhead Local Plan (LP) which, amongst other matters, seek to ensure that new residential developments are of a high standard of design; the design and scale of new buildings is compatible with the established street façade having regard to the scale, height and building lines of adjacent properties; and that harm is not caused to the character of the surrounding area through development which is cramped or which results in the loss of important features which contribute to that character. These policies are broadly consistent with the core principles of the National Planning Policy Framework (2012) (the Framework) which requires that planning should take account of the character of different areas and always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

15. With regard to the comments and submissions from a third party and local residents regarding the proposed new access, I acknowledge that it may have been the case that the Council and the Highway Authority had a preference to use the existing access. However, as I am required to do so I have determined the appeal on its own merit and on the basis of the same drawings and details as was submitted to, and determined by, the Council. In respect of highway safety the Highway Authority did not object to the proposal on this basis and it did not form one of the Council's reasons for refusal. Moreover, there is no evidence before me which would lead me to conclude that the proposed new access would result in any significant increase in risk to highway safety.
16. Local residents object to the proposal on a wider basis, including in respect of setting a precedent, loss of privacy for future residents of the proposal in the garden area, noise disturbance, loss of light, over-shadowing of the driveway, devaluation of existing properties, and traffic congestion.
17. However, devaluation is not a material planning consideration to which I can attach any significant weight. With regard to the other concerns, these did not form part of the Council's reasons for refusal and I am satisfied that these

matters would not result in a level of harm which would justify dismissal of the appeal. In addition, I have considered the appeal entirely on its own merit and in the light of all the information before me; any future proposals nearby would also need to be considered in the same manner. Hence, allowing the appeal would not set a precedent for further similar development in the area.

18. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

S.106 planning obligation

19. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
20. There is a signed and completed UU. It requires the appellant to make financial contributions totalling £98,705.67 towards infrastructure as follows: £540 towards allotments, £342 towards local biodiversity initiatives, £9,361.37 towards education, £23,735 towards highways and public transport, £40,341 towards public open space, £5,472 towards community and youth facilities, £6,324.30 towards library services, £3,590 towards public art and heritage, £8,375 towards indoor sports facilities, and £625 towards waste disposal and recycling.
21. Support for the contributions in the UU and how they would be spent is set out in LP Policies IMP1, R3 and T6, the Council's statement², and adopted guidance³. In addition, national planning policy regarding S106 was updated in November 2014⁴ together with associated revisions to the PPG⁵ guidance; a matter also referred to in the appellant's further comments. The updated national policy now provides an exemption to the requirement for affordable housing and tariff style contributions for housing developments which do not exceed a threshold of 10 units or less and 1000sqm floor space. The proposal in this appeal exceeds the 1000sqm threshold and hence does not benefit from the exemption.
22. With regard to the Council's evidence, I am not convinced that the £3,950 towards public art and heritage, the £540 towards allotments, and the £342 towards local biodiversity initiatives are directly related to the development, or necessary to make the development acceptable. I therefore attach no weight to them in reaching my decision.
23. However, I am satisfied that the remainder of the proposed contributions are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with CIL Regulation 122. I have therefore attached weight to them in reaching my decision.

² Appendix 3: 'Developer Contributions'.

³ 'Planning Obligations and Developer Contributions' SPD (Revised March 2014), and

'Interpretation of Policies R2 to R6 – Public Open Space provision.

⁴ Written Ministerial Statement, Brandon Lewis, 28 November 2014.

⁵ National Planning Practice Guidance paragraphs 12-23.

24. There is also a requirement for £697 towards the Council's monitoring and administration costs associated with the UU. However, all of the contributions sought are required to be paid prior to commencement of any development. There is no evidence before me which would indicate that the cost of monitoring and administering the UU would give rise to additional costs over and above the Council's existing resources. Having regard to the recent judgment of the High Court⁶, I consider that this is an unjustified requirement and I have therefore not taken into account in reaching my decision.

Conditions

25. The Council has suggested a number of planning conditions which I have considered against the advice in the PPG and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of them for clarity and elimination of duplication.
26. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans. Conditions to secure appropriate refuse disposal facilities, finishing materials, slab levels, external lighting, tree retention and landscaping, and window height details are necessary in the interests of amenity and the character and appearance of the area. Highways conditions, including provision of the access prior to first occupation, visibility splays, cycle storage, and provision of parking and turning areas are necessary to ensure highway and pedestrian safety and to encourage more sustainable forms of transport. Conditions to secure a high standard of design and energy efficiency are also necessary. In the interest of protecting the bat population I have also imposed a condition to secure mitigation measures. A condition to secure a Construction Management Plan (including access during demolition and construction) is necessary to ensure there are no significant adverse impacts upon the living conditions of local residents, or upon the highway.
27. I have not imposed the proposed conditions in respect of requiring Code level 3 of the Code for Sustainable homes (COSH) because the achievement of at least COSH level 3 is now enshrined in Part L of the Building Regulations. I have also not imposed the proposed condition requiring the existing northern access to be stopped up because this is already shown on the submitted drawings and required to be complied with by condition No. 2. The proposed condition requiring privacy screen details is not necessary because these are shown on the submitted drawings and approval of samples of external materials is required by condition No. 3.

Conclusion

28. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development (para. 14) bearing in mind the objective (para. 47) to boost significantly the supply of housing.
29. Paragraph 14 states that where the presumption in favour of sustainable development applies, and where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly

⁶ Oxfordshire CC v Secretary of State for Communities and Local Government [2015] EWHC 186 (Admin).

and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Despite their age I have in any event concluded that the proposed development would accord with the Council's Development Plan policies.

30. Moreover, the development would provide a social benefit of much needed additional housing at a time when there is a recognised shortage. It would add to the economy by sustaining construction jobs and, through additional residents, it would likely result in an increase in spending on local shops and services. In environmental terms it would result in a development which would be constructed to achieve the Lifetime Homes⁷ standard and occupied utilising energy efficient features. With regard to paragraph 14 of the Framework I consider that these would amount to substantial benefits in support of the proposal which are not significantly and demonstrably outweighed by adverse impacts when assessed against the policies of the Framework taken as a whole.
31. For all the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Thomas Shields

INSPECTOR

⁷ Lifetime Homes Design Guide (2011).

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: 1100D, 1101D, 1102B, 1103, 1200B, 1201B, 1202B, 1203B, 1300A, 1301A, 1302A, 1303A, 1304A.
- 3) Prior to the commencement of development samples of the external materials to be used for the construction of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of all finished slab levels in relation to ground level have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) For the purposes of this condition a 'retained tree' is one shown on drawing 1100 Rev D. The erection of fencing for the protection of any retained tree and any other protection specified shall be undertaken in accordance with the Method Statement for the protection of existing trees in the Tree Condition Survey by Goodger Design Associates before any equipment, machinery or materials are brought on to the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. Ground levels within protected areas shall not be altered, nor shall any excavation be made, nor anything stored or placed within them.
- 6) No tree or hedgerow shown to be retained in drawing 1100 Rev D shall be cut down, uprooted or destroyed, nor shall any retained tree be lopped or topped other than in accordance with the approved plans and particulars or without the prior written approval of the local planning authority, until 5 years from the date of occupation of the building for its permitted use. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 Tree work. If, within 5 years, any retained tree is removed, uprooted or destroyed or dies, a replacement tree of the same size and species shall be planted in the immediate vicinity.
- 7) No development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of 5 years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
- 8) The measures for sustainable design and construction and Lifetime Homes set out in the Design and Access Statement shall be implemented prior to the first occupation.

- 9) Notwithstanding condition 8, no development shall commence until details of the construction of the photovoltaic panels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Prior to the commencement of any works of demolition or construction a construction management plan (CMP) shall be submitted to and approved in writing by the local planning authority. The CMP shall include details of how demolition and construction traffic, (including cranes), vehicular access to the site, parking and manoeuvring, materials storage, and facilities for operatives will be accommodated during the development. The development shall be carried out in accordance with the approved CMP.
- 11) No part of the development shall be occupied until the vehicle parking and turning spaces have been provided, surfaced and marked out in accordance with the approved drawings. The parking and turning spaces shall be kept available for parking and turning thereafter.
- 12) Prior to the commencement of development a scheme for the operational management of facilities to be provided for the storage, and emptying of refuse and recycling bins shall be submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be provided prior to first occupation and retained thereafter and managed for the lifetime of the development.
- 13) Prior to first occupation of the development the covered and secure cycle storage facilities shall be provided in accordance with the approved drawings and shall thereafter be kept available for the storage of cycles.
- 14) Prior to first occupation of the development the access shall be constructed in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
- 15) Prior to first occupation of the development the visibility splays shown on the approved drawings shall be provided. The areas within these splays shall thereafter be kept free of all obstructions to visibility above a height of 0.6 metres from the surface of the carriageway.
- 16) There shall be no external lighting on the site other than in accordance with a scheme of lighting which shall have first been submitted to and approved in writing by the local planning authority.
- 17) The first and second floor windows in the southern elevation shall have a cill level that is a minimum of 1.7m above the finished internal floor level. No further windows shall be inserted at first or second floor level in the side elevations of the building.
- 18) The proposed scheme shall be carried out in accordance with the proposed bat mitigation measures as detailed in the Bat Emergence Survey dated May 2014 produced by John Wenman Ecological Consultancy.

END OF SCHEDULE

Appendix A

Site Location

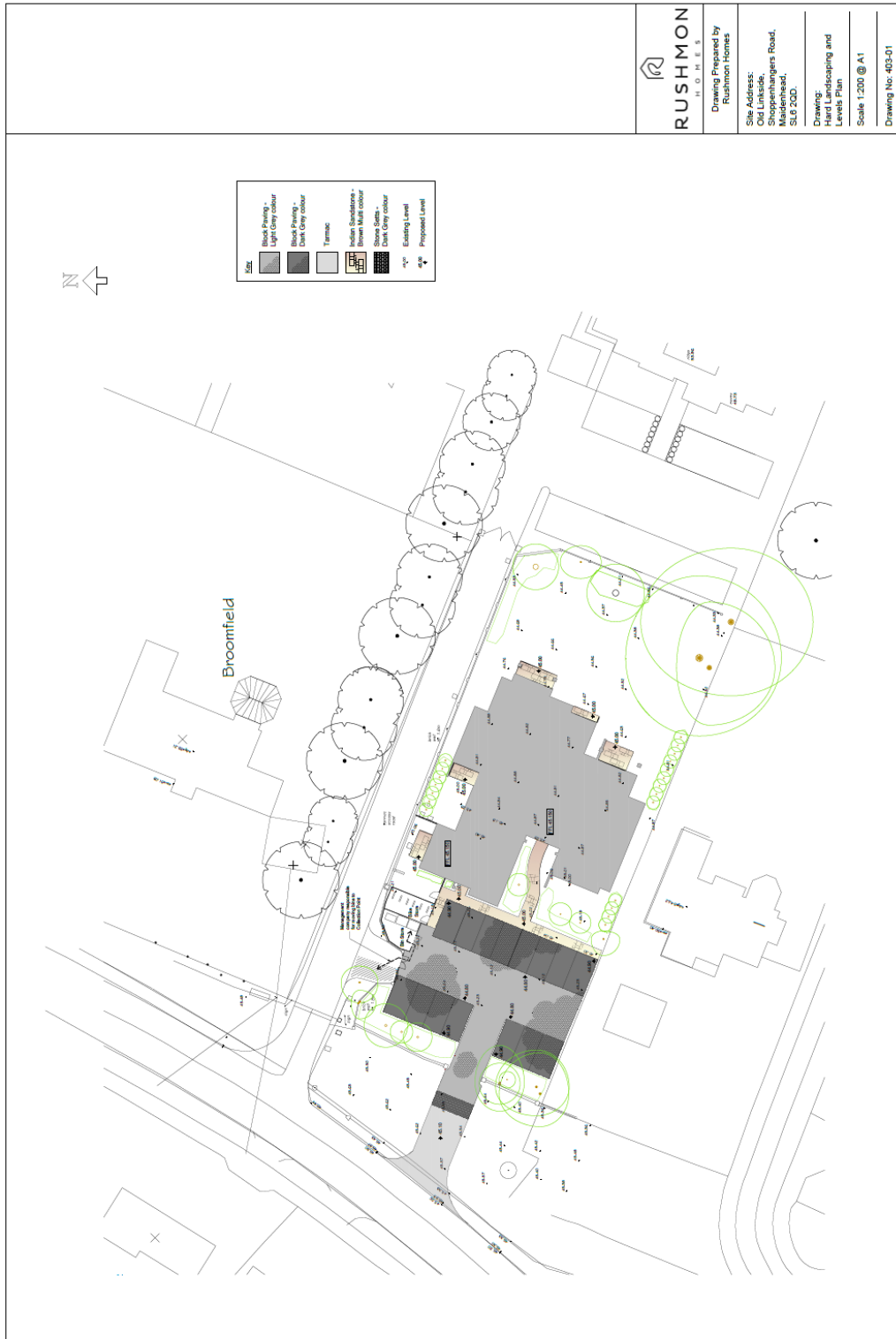


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Scale @ A4 1:1,250

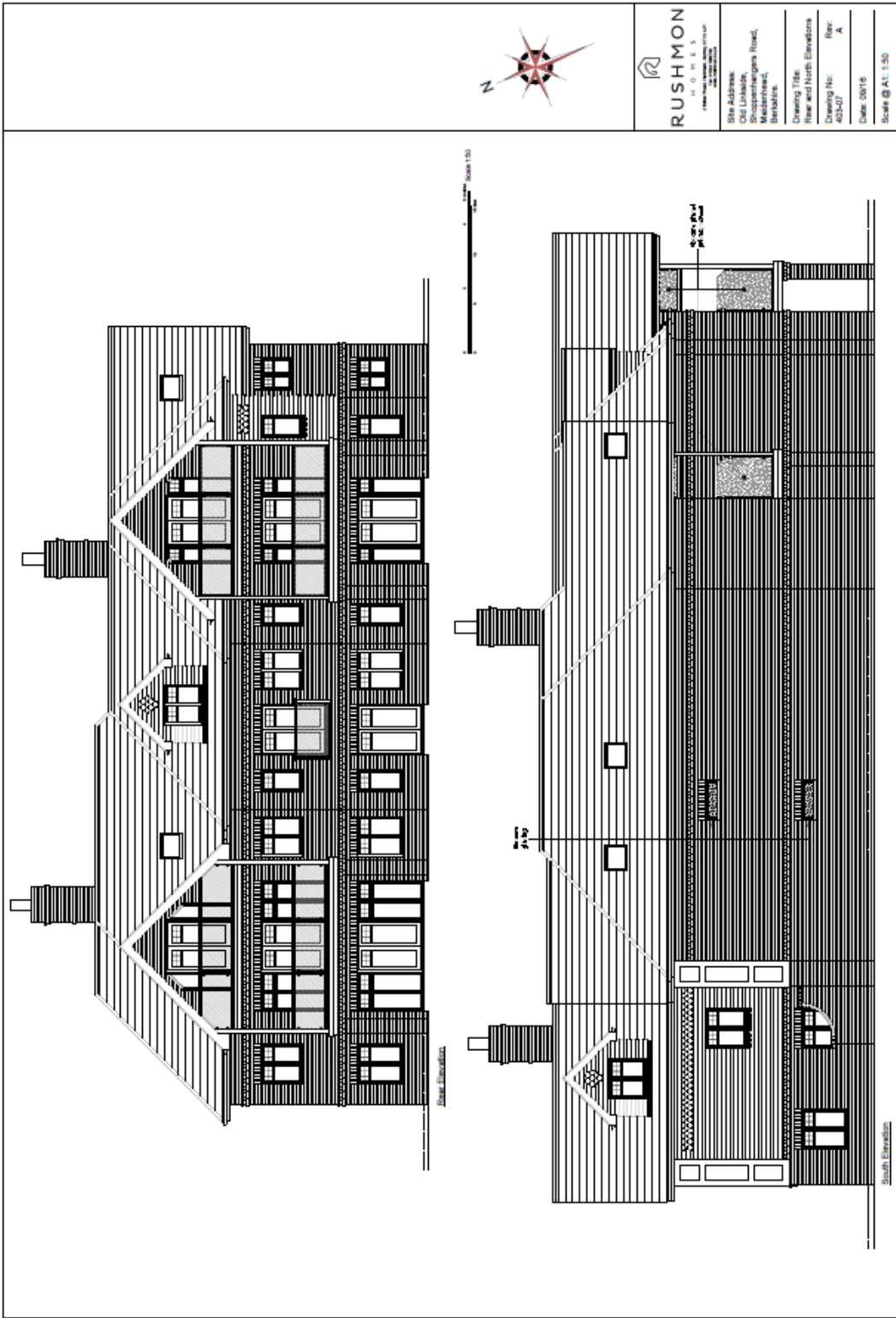


Site Layout



Elevations





RUSHMON
 ARCHITECTURE
 1000 WEST 10TH AVENUE
 SUITE 1000 DENVER, CO 80202

Site Address:
 636 Linkside,
 Shoppenhaven Road,
 Macomber,
 Berkeley

Drawing Title:
 Rear and North Elevations

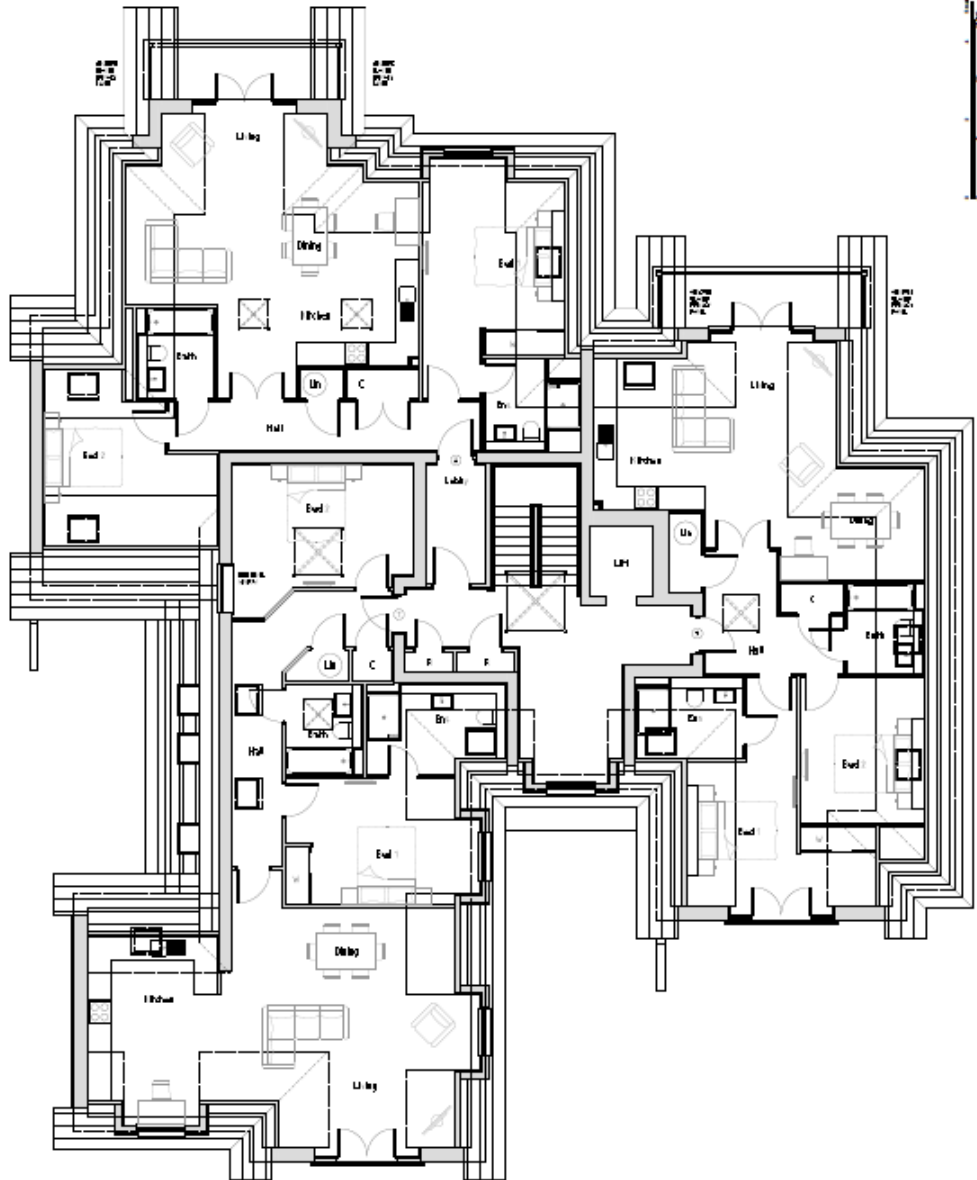
Drawing No.: 4034-07 Rev: A

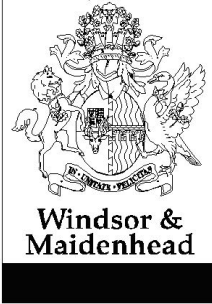
Date: 03/16

Scale @ A1: 1/50



RUSHMON
S. O. N. L. S.
11000, Pong, 10000, 10000, 10000
Site Address:
Old Linkah,
Shoppohangam Road,
Mudimant,
Bendang.
Drawing Title:
Second Floor Plan
Drawing No:
400-04 Rev:
A
Date: 00/18
Scale @ A1: 1:50





Appeal Decision Report

21 September 2016 - 10 November 2016

MAIDENHEAD

Appeal Ref.: 16/00029/REF **Planning Ref.:** 15/03531/LBC **Plns Ref.:** APP/T0355/Y/16/3142400

Appellant: Mr B Palmer-Page **c/o Agent:** Mr Martin Crook MSC Planning Ltd 259 Amersham Road Hazlemere High Wycombe Buckinghamshire HP15 7QW

Decision Type: Delegated **Officer Recommendation:** Refuse

Description: Consent to convert existing barn to a dwelling with ancillary landscaping works

Location: **Paradise Farm Twyford Road Waltham St Lawrence Reading RG10 0HL**

Appeal Decision: Dismissed **Decision Date:** 9 November 2016

Main Issue: The Inspector found that the proposed extension with its fully glazed opening would extend the barn in a way that would not reflect its simple utilitarian form, and would unacceptably interrupt the bold and deep sweep of the rear roofscape. The positioning and number of windows and doors would adversely harm the special interest of this Listed Building and its contribution to the farmstead and the Conservation Area. The internal horizontal and vertical subdivision would interrupt the open spacious interior and the open through-way formed by the opposing cart entrances, and would be at harmful odds with a fundamental aspect of the barn's special interest. The large rear garden would distort the visual and functional linkages of the fields to the farmstead, and would erode the character and appearance of the area. The proposal would result in less than substantial harm to the Conservation Area and the Listed Building, which is not outweighed by public benefits. The proposal would neither preserve a Grade II Listed Building and its special interest, its setting and that of others, nor preserve or enhance the character or appearance of the Conservation Area.

Appeal Ref.: 16/00030/REF **Planning Ref.:** 15/03528/FULL **Plns Ref.:** APP/T0355/W/16/3142397

Appellant: Mr B Palmer-Page **c/o Agent:** Mr Martin Crook MSC Planning Ltd 259 Amersham Road Hazlemere High Wycombe Buckinghamshire HP15 7QW

Decision Type: Delegated **Officer Recommendation:** Refuse

Description: Conversion of existing barn to a dwelling with ancillary landscaping works

Location: **Paradise Farm Twyford Road Waltham St Lawrence Reading RG10 0HL**

Appeal Decision: Dismissed **Decision Date:** 9 November 2016

Main Issue: The Inspector found that the proposed extension with its fully glazed opening would extend the barn in a way that would not reflect its simple utilitarian form, and would unacceptably interrupt the bold and deep sweep of the rear roofscape. The positioning and number of windows and doors would adversely harm the special interest of this Listed Building and its contribution to the farmstead and the Conservation Area. The internal horizontal and vertical subdivision would interrupt the open spacious interior and the open through-way formed by the opposing cart entrances, and would be at harmful odds with a fundamental aspect of the barn's special interest. The large rear garden would distort the visual and functional linkages of the fields to the farmstead, and would erode the character and appearance of the area. The proposal would result in less than substantial harm to the Conservation Area and the Listed Building, which is not outweighed by public benefits. The proposal would neither preserve a Grade II Listed Building and its special interest, its setting and that of others, nor preserve or enhance the character or appearance of the Conservation Area. The change of use of the land to garden is inappropriate development in the Green Belt, and this is not outweighed by any other considerations that would amount to very special circumstances.

Appeal Ref.: 16/60056/NOND **Planning Ref.:** 16/00584/FULL **Plns Ref.:** APP/T0355/W/16/
ET 3150386

Appellant: Mr B Palmer-Page **c/o Agent:** Mr Martin Crook MSC Planning Ltd 259 Amersham Road
Hazlemere High Wycombe Buckinghamshire HP15 7 QW

Decision Type: Delegated **Officer Recommendation:** Would Have
Refused

Description: Conversion of existing barn to a dwelling with ancillary landscaping works

Location: **Paradise Farm Twyford Road Waltham St Lawrence Reading RG10 0HL**

Appeal Decision: Dismissed **Decision Date:** 9 November 2016

Main Issue: The Inspector found that the proposed side extension would be a dominating addition to the building, and the dominant effect of the two barns due to their size and cohesive appearance would be unacceptably eroded by the size of the proposed extension. The provision of glazed hips would give an overtly residential appearance to the building at odds with its utilitarian vernacular appearance. The positioning and number of windows and doors would adversely harm the special interest of this Listed Building and its contribution to the farmstead and the Conservation Area. The internal horizontal and vertical subdivision would interrupt the open spacious interior and the open through-way formed by the opposing cart entrances, and would be at harmful odds with a fundamental aspect of the barn's special interest. The large rear garden would distort the visual and functional linkages of the fields to the farmstead, and would erode the character and appearance of the area. The proposal would result in less than substantial harm to the Conservation Area and the Listed Building, which is not outweighed by public benefits. The proposal would neither preserve a Grade II Listed Building and its special interest, its setting and that of others, nor preserve or enhance the character or appearance of the Conservation Area. The change of use of the land to garden is inappropriate development in the Green Belt, and this is not outweighed by any other considerations that would amount to very special circumstances.

Appeal Ref.: 16/60057/NOND **Planning Ref.:** 16/00585/LBC **Plns Ref.:** APP/T0355/Y/16/
ET 3150390

Appellant: Mr B Palmer-Page **c/o Agent:** Mr Martin Crook MSC Planning Ltd 259 Amersham Road
Hazlemere High Wycombe Buckinghamshire HP15 7 QW

Decision Type: Delegated **Officer Recommendation:** Would Have
Refused

Description: Consent to convert existing barn to a dwelling with ancillary landscaping works

Location: **Paradise Farm Twyford Road Waltham St Lawrence Reading RG10 0HL**

Appeal Decision: Dismissed **Decision Date:** 9 November 2016

Main Issue: The Inspector found that the proposed side extension would be a dominating addition to the building, and the dominant effect of the two barns due to their size and cohesive appearance would be unacceptably eroded by the size of the proposed extension. The provision of glazed hips would give an overtly residential appearance to the building at odds with its utilitarian vernacular appearance. The positioning and number of windows and doors would adversely harm the special interest of this Listed Building and its contribution to the farmstead and the Conservation Area. The internal horizontal and vertical subdivision would interrupt the open spacious interior and the open through-way formed by the opposing cart entrances, and would be at harmful odds with a fundamental aspect of the barn's special interest. The large rear garden would distort the visual and functional linkages of the fields to the farmstead, and would erode the character and appearance of the area. The proposal would result in less than substantial harm to the Conservation Area and the Listed Building, which is not outweighed by public benefits. The proposal would neither preserve a Grade II Listed Building and its special interest, its setting and that of others, nor preserve or enhance the character or appearance of the Conservation Area.

Appeal Ref.: 16/60060/REF **Planning Ref.:** 16/00785/FULL **Plns Ref.:** APP/T0355/W/16/3151162

Appellant: Mr Ricky Davidson **c/o Agent:** Mr Tom McArdle Pike Smith _ Kemp Ltd, The Granary Hyde Farm, Marlow Road Maidenhead Berkshire SL6 6PQ

Decision Type: Committee **Officer Recommendation:** Application Permitted

Description: Change of use of existing detached ancillary playroom to a self-contained separate one bedroom dwelling with retention of detached garage, existing garden and off street parking

Location: **47 Allenby Road Maidenhead SL6 5BE**

Appeal Decision: Dismissed **Decision Date:** 21 September 2016

Main Issue: The Inspector agreed that the appearance of the locality would remain largely unchanged if the development proceeded, albeit that the building works already carried out conveys a cramped impression. However, he considered that the character of the area would be materially affected for the worse were the appeal granted permission. The use of the building, together with the adjoining garage as an independent dwelling, would materially and harmfully transform the perceived character of the immediate area. The development, including No 47, and its use as a separate dwelling would be perceived as overly cramped and congested in comparison with and in the context of the over-riding spacious residential characteristics of the wider area. The appellant has failed to appropriately distinguish between the terms 'appearance' and 'character' and that the proposed development would be perceived as wholly and harmfully uncharacteristic of this good quality residential area. The Inspector considered that the residual space left to the respective properties would just about provide an adequate level of amenity space for their future residents in terms of quality and quantity.

Appeal Ref.: 16/60062/NOND **Planning Ref.:** 16/00960/VAR **Plns Ref.:** APP/T0355/W/16/3151815

Appellant: Ms J Bennett **c/o Agent:** Mr Tom McArdle Pike Smith And Kemp The Granary Hyde Farm Marlow Road Maidenhead Berkshire SL6 6PQ

Decision Type: Committee **Officer Recommendation:** Would Have Refused

Description: Construction of a detached 2 bedroom agricultural workers dwelling as approved under planning permission 09/02083 without complying with condition 3 (Agricultural occupancy) to vary the wording of the condition

Location: **Glebeland Farm Drift Road Maidenhead SL6 3ST**

Appeal Decision: Allowed **Decision Date:** 27 October 2016

Main Issue: The main issue is whether it would be appropriate to widen the occupancy restriction. There is more than a theoretical possibility that permitted development rights may be utilised to allow a limited equestrian enterprise to take place on site. Extending the occupancy of the dwelling to allow or an equestrian worker would allow for that to take place. There would be in line with paragraph 28 and 81 of the Framework which seeks to support economic growth of all types of business in rural areas and would assist in supporting opportunities for outdoor sport and recreation providing a beneficial use in the Green Belt.

Appeal Ref.: 16/60063/NOND **Planning Ref.:** 15/02303/FULL **Plns Ref.:** APP/T0355/W/16/
ET 3151610

Appellant: Ms J Bennet **c/o Agent:** Mr Tom McArdle Pike Smith And Kemp Ltd The Granary Hyde Farm Marlow Road Maidenhead Berkshire SL6 6PQ

Decision Type: Committee **Officer Recommendation:** Would Have Refused

Description: Change of use from agriculture to equestrian to install full size polo pitch and associated stick and ball pitch

Location: **Glebeland Farm Drift Road Maidenhead SL6 3ST**

Appeal Decision: Dismissed **Decision Date:** 27 October 2016

Main Issue: Exception 2 is the provision of appropriate facilities for outdoor sports and recreation as long as it preserves the openness of the Green Belt. The proposal includes the making of a material change of use from agriculture to polo use, but the making of a material change of use is not implicitly included within exception 2 and the land has to be already in lawful use for outdoor use. The proposal therefore represents inappropriate development within Green Belt, which is by definition harmful to the Green Belt and substantial weight should be given to this harm. There would also be harm to openness and the character and appearance of the area due to the increase need for HGVs and player's cars, and creation of a parking area as this would have an urbanising effect, encroaching on the countryside. Set against this are the benefits of providing opportunities for sports, enhancing visual amenity, and improving damaged land, which are given moderate weight and do not outweigh the harm identified. Consequently very special circumstances do not exist.

Appeal Ref.: 16/60064/NOND **Planning Ref.:** 15/02344/OUT **Plns Ref.:** APP/T0355/W/16/
ET 3151615

Appellant: Ms J Bennet **c/o Agent:** Mr Tom McArdle Pike Smith And Kemp Ltd The Granary Hyde Farm Marlow Road Maidenhead Berkshire SL6 6PQ

Decision Type: Committee **Officer Recommendation:** Would Have Refused

Description: Construction of quadrangle of 66 no. stables, tack rooms, feed stores, hay barn and groom's day room following demolition of existing agricultural buildings

Location: **Glebeland Farm Drift Road Maidenhead SL6 3ST**

Appeal Decision: Dismissed **Decision Date:** 27 October 2016

Main Issue: The construction of new buildings is inappropriate development in Green Belt with exceptions. Exception 2 is the provision of appropriate facilities for outdoor sports and recreation as long as it preserves the openness of the Green Belt. Although for operational development the proposal includes the making of a material change of use from agriculture to keeping of polo ponies. The making of a material change of use is not implicitly included within exception 2 and the land has to be already in lawful use for outdoor use which is not the case here. The proposal therefore represents inappropriate development within Green Belt. The proposed footprint and volume are reduced from the existing situation and would enhance openness. The proposal would also enhance character given the loss of existing buildings and structure of unkempt appearance and poor condition and consolidation of development. However, due to the lack of details on incidental activity gives uncertainty as to what the effect in reality would be and thus tempers the weight given to benefits to openness and character. The contribution of health and well-being is only given moderate weight because the facilities would be private rather than a public facility. The fall-back position of the use to indoor our outdoor sports taking place under permitted development has a greater than theoretical possibility but would have a fewer and lesser effect than the proposal, and so given only moderate weight in favour of the development. Little weight is given to the theoretical possibility of a change of use to a dwelling or state-funded school as there would no more than a theoretical possibility of occurring. No weight is given to the unviability of the farm use due to the lack of information and evidence. There would be a reduction in traffic but given the uncertainties as the likelihood of agricultural use taking place to the level indicated this benefit is only given limited weight. There would be benefits to the local economy and this is given moderate weight. Overall, the benefits are not considered to outweigh the harm identified and as a whole Very Special Circumstances needed to justify the development do not exist.

Appeal Ref.: 16/60078/REF **Planning Ref.:** 15/03871/FULL **Plns Ref.:** APP/T0355/W/16/3152240

Appellant: First National Investments Ltd **c/o Agent:** Mr Richard Cutler Cutler Architects 43 St Mary's Street Wallingford Oxfordshire OX10 0EU

Decision Type: Delegated **Officer Recommendation:** Refuse

Description: New chalet bungalow following demolition of shed and store

Location: **Land Adjacent 35A And 35B Boyn Valley Road Maidenhead**

Appeal Decision: Dismissed **Decision Date:** 21 October 2016

Main Issue: The Inspector found that the proposed development would be harmful to the character and appearance of the surrounding area. She also found that it would be harmful to the living conditions of both the existing occupants of 10 and 12 Lexington Avenue, in terms of loss of light and outlook, and the future occupants of the chalet bungalow due to lack of suitable garden space.

Appeal Ref.: 16/60083/REF **Planning Ref.:** 16/01201/FULL **Plns Ref.:** APP/T0355/D/16/3158107

Appellant: Mr Arvydas Kolelis **c/o Agent:** Mr Peter M Salmon Camber Broad Lane Bracknell Berkshire RG12 9BY

Decision Type: Delegated **Officer Recommendation:** Refuse

Description: Construction of detached garage and alterations to driveway

Location: **Katura Fifield Road Fifield Maidenhead SL6 2NX**

Appeal Decision: Allowed **Decision Date:** 14 October 2016

Main Issue: Whilst the detached garage subject of the application is not directly attached to the host dwelling, the close proximity to it and the use in connection with it lead to the conclusion that it would be assessed as an extension rather than a new building. The host dwelling has not previously been extended and as such it was considered that the proposed detached garage would not result in a disproportionate addition over and above the size of the original dwelling.



Planning Appeals Received

13 October 2016 - 10 November 2016

MAIDENHEAD

The appeals listed below have been received by the Council and will be considered by the Planning Inspectorate. Further information on planning appeals can be found at <https://acp.planninginspectorate.gov.uk/> Should you wish to make comments in connection with an appeal, please use the Plns reference number and write to the relevant address, shown below.

Enforcement appeals: The Planning Inspectorate, Room 3/23 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or email teame1@pins.gsi.gov.uk

Other appeals: The Planning Inspectorate Room 3/10A Kite Wing Temple Quay House 2 The Square Bristol BS1 6PN or email teamp13@pins.gsi.gov.uk

Ward:

Parish:

Appeal Ref.: 16/60092/REF **Planning Ref.:** 16/00831/CLAS **Plns Ref.:** APP/T0355/W/16/
SO 3156044
Date Received: 18 October 2016 **Comments Due:** 22 November 2016
Type: Refusal **Appeal Type:** Written Representation
Description: Change of use from offices (B1 (a)) to a dwelling house (C3).
Location: **Forever Fuels Summerleaze Barn 225 Blackmoor Lane Maidenhead SL6 8RT**
Appellant: Forever Fuels c/o **Agent:** Mrs Jan Molyneux Molyneux Planning 38 The Lawns Brill
Aylesbury Buckinghamshire HP18 9SN

Ward:

Parish:

Appeal Ref.: 16/60094/NONDET **Planning Ref.:** 16/01887/FULL **Plns Ref.:** APP/T0355/W/16/
3157199
Date Received: 24 October 2016 **Comments Due:** 28 November 2016
Type: Non-determination **Appeal Type:** Written Representation
Description: Conversion and change of use of barn to dwelling including raising of roof.
Location: **Unit 1 Coningsby Farm Coningsby Lane Fifield Maidenhead**
Appellant: Mr Michael Smyth c/o **Agent:** Ms Shelley Woods Relic Studio Ltd Battlers Green Farm
Common Lane Radlett Hertfordshire WD7 8PH

Ward:

Parish:

Appeal Ref.: 16/60095/REF **Planning Ref.:** 16/01317/FULL **Plns Ref.:** APP/T0355/D/16/
3159328
Date Received: 27 October 2016 **Comments Due:** Not Applicable
Type: Refusal **Appeal Type:** Householder
Description: Single storey front and rear extensions
Location: **4 Choseley Road Knowl Hill Reading RG10 9YT**
Appellant: Miss G Shepherd c/o **Agent:** Mr Eric Bolton Newtown House Newtown Road Henley On
Thames Oxon RG9 1HG

Ward:

Parish:

Appeal Ref.: 16/60096/REF **Planning Ref.:** 16/01491/FULL **Plns Ref.:** APP/T0355/D/16/
3157893
Date Received: 27 October 2016 **Comments Due:** Not Applicable
Type: Refusal **Appeal Type:** Householder
Description: Part single, part two storey side extension and widening of front access following demolition
of existing garage and 2 No. sheds.
Location: **4 Gordon Road Maidenhead SL6 6BT**
Appellant: Mr Craig Irvine 4 Gordon Road Maidenhead SL6 6BT

Ward:
Parish: Bray Parish
Appeal Ref.: 16/60098/REF **Planning Ref.:** 15/04034/FULL **Plns Ref.:** APP/T0355/Y/16/
3156321
Date Received: 9 November 2016 **Comments Due:** 14 December 2016
Type: Refusal **Appeal Type:** Written Representation
Description: Change of use to provide overnight accommodation
Location: **1 Oldfield View High Street Bray Maidenhead SL6 2AG**
Appellant: The Fat Duck Ltd **c/o Agent:** Mr Robert Reynolds Planning And Development Partnership
Wash Hill Cottage Wash Hill Wooburn Green High Wycombe HP10 0JA

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