

NOTICE  
OF  
MEETING

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**WINDSOR URBAN DEVELOPMENT  
MANAGEMENT PANEL**

will meet on

**WEDNESDAY, 27TH FEBRUARY, 2019**

**At 7.00 pm**

in the

**COUNCIL CHAMBER - GUILDHALL WINDSOR,**

TO: MEMBERS OF THE WINDSOR URBAN DEVELOPMENT MANAGEMENT PANEL

COUNCILLORS MALCOLM ALEXANDER (CHAIRMAN), PHILLIP BICKNELL (VICE-CHAIRMAN), MICHAEL AIREY, JOHN BOWDEN, WISDOM DA COSTA, EILEEN QUICK, SAMANTHA RAYNER, MALCOLM BEER AND CANNON

SUBSTITUTE MEMBERS

COUNCILLORS SHAMSUL SHELMIM, NATASHA AIREY, CHRISTINE BATESON, HASHIM BHATTI, GARY MUIR, WESLEY RICHARDS, LYNNE JONES AND EDWARD WILSON

Karen Shepherd – Service Lead, Governance - Issued: 19 February 2019

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](http://www.rbwm.gov.uk) or contact the Panel Administrator **Wendy Binmore** 01628 796251

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## **AGENDA**

### **PART I**

<b><u>ITEM</u></b>	<b><u>SUBJECT</u></b>	<b><u>PAGE NO</u></b>
1.	<b><u>APOLOGIES FOR ABSENCE</u></b>  To receive any apologies for absence.	
2.	<b><u>DECLARATIONS OF INTEREST</u></b>  To receive any declarations of interest.	5 - 6
3.	<b><u>MINUTES</u></b>  To confirm the minutes of the previous meeting.	7 - 10
4.	<b><u>PLANNING APPLICATIONS (DECISION)</u></b>  To consider the Head of Planning's 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 at <a href="http://www.rbwm.gov.uk/pam/search.jsp">http://www.rbwm.gov.uk/pam/search.jsp</a>	11 - 46
5.	<b><u>ESSENTIAL MONITORING REPORTS (MONITORING)</u></b>  To consider the Essential Monitoring reports.	47 - 48



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## MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

### Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they 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 the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

### Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) 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 licence 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.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

### Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

### Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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# Agenda Item 3

## WINDSOR URBAN DEVELOPMENT MANAGEMENT PANEL

WEDNESDAY, 30 JANUARY 2019

**PRESENT:** Councillors Malcolm Alexander (Chairman), Phillip Bicknell (Vice-Chairman), Michael Airey, Malcolm Beer, John Bowden, Eileen Quick, Samantha Rayner, Shamsul Shelim, Malcolm Beer and Edward Wilson

**Officers:** Ashley Smith, Wendy Binmore, Louise Humphreys, Sian Saadeh, Ashley Smith and Jenifer Jackson

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Wisdom Da Costa.

Councillor M. Airey also notified the Clerk he would be attending Panel a few minutes late.

### DECLARATIONS OF INTEREST

**Cllr M. Airey** – Declared a personal interest in item 2 as his wife, Cllr N. Airey, called the application in to Panel. However, Cllr M. Airey had not discussed the application with his wife and he confirmed he attended Panel with an open mind.

**Cllr Bowden** – Declared a Prejudicial interest in item 4 as he was a resident of the Conservation Area and he spoke against the item the last time it was presented at Panel. Cllr Bowden confirmed he would not vote on the item.

**Cllr Quick** – Declared a personal interest in item 4 as she had signed the petition relating to the development. However, she confirmed she attended Panel with an open mind.

**Cllr S. Rayner** – Declared a personal interest in item 4 as Cllr S. Rayner and Cllr C. Rayner held insurance with the Farmers Union who were the applications for the item. Cllr S. Rayner confirmed she attended Panel with an open mind.

**Cllr Shelim** – Declared a personal interest in item 4 as he owned a business in the immediate area and also signed the petition on the development. He confirmed he attended Panel with an open mind.

### MINUTES

**RESOLVED UNANIMOUSLY:** That the minutes of the meeting held on 7 January 2019 be approved.

### TO CONSIDER A REPORT FROM THE HEAD OF PLANNING

Jenifer Jackson, Head of Planning, stated the purpose of the report being presented to Panel was not to reopen that application and so new reasons for refusal could not be added, it was brought back to Panel to consider the three reasons for refusal. The Head of Planning added that following correspondence, the Council needed to revisit

the application to make sure the reasons for refusal stood up at appeal. Officers did not feel they could robustly defend the refusal in light of the Borough Local Plan being paused. Therefore, Officers would only present reason three as laid out in Section three of the main report.

The Head of Planning wanted to reassure residents and the Panel that it was usual to negotiate and enter into a legal agreement prior to appeal and that would not prejudice the case. The Inspectorate would want it made clear what the dispute was prior to the application going to appeal.

Councillor Stretton addressed the Panel and stated following the Full Council decision to uphold the appeal, she had read the report from the June Panel and Officers had cited three reasons for refusal. She asked why all aspects were not included; residents and Members were being told that a long pause in the Borough Local Plan was requested due to significant changes being needed. Councillor Stretton added the submission of evidence should reflect the weight of the Borough Local Plan and she suggested a robust refusal and that Officers could just remove the reference to the Borough Local Plan. Councillor Stretton said an informative could be added and that she will recommend the application is reviewed and scrutinised at the Planning & Housing Overview & Scrutiny Panel. She had raised the issues in Spring 2018.

Councillor Bowden said he would attend the appeal as a Councillor and as a local resident. He would be supporting residents in objection to the application. Councillor Bicknell stated it had been made clear that the Panel were not going over the decision. Development of the site had been presented to Panel over many years but, it had never been approved. He added the Borough's Officers were the experts and there were three reasons for refusal but, two now appeared to carry less weight and were weak. If the Borough put forward the two weak reasons, it could make the third reason weak and that was concluded from expert advice. Councillor S. Rayner agreed; she stated the third reason had given more weight to refusal and would help the case. The development was not of a high quality design.

The Head of Planning confirmed the Panel debated many issues back in June 2018 and only requested three reasons for refusal so it was not right to add any more reasons. Councillor E. Wilson said he agreed with Councillor Bicknell's comments that the situation had changed materially since June 2018 and of the Council did not consider those material changes, the Planning Inspector would ask why. Full council had supported the Panel's desire to defend the reason for refusal. He supported the recommendations in the report. Councillor Quick stated the Panel wanted to make sure the Council had the best case to win at appeal. She added that as the site was derelict, that would weaken the reason for employment. The Head of Planning confirmed in June 2019 that the Borough was in a position to allocate the site for employment in the Borough Local Plan but the plan had not progressed as quickly as hoped and therefore, that did not help the Council's case.

Councillor Beer stated he had been a Member of Development Management Panels for over 24 years and he felt the Borough was stuck. He did not like it but he thought the Panel should adopt the recommendation before them as it was best to stick to firm ground, he also supported the Officers recommendations as listed in the report. The Head of Planning stated it was not that the Borough Local Plan was proceeding very well, it was that it was taking longer than hoped. She confirmed the plan had been progressing well. The Council were prepared for the appeal and had appointed an

urban design officer to make the case; she had been out to site and a survey of the site had also been carried out.

The Chairman informed residents and Members that the appeal was being held at the Windsor Racecourse and he urged all those that could to attend.

**RESOLVED: That the Panel authorised the Head of Planning to:**

- 1. Write to the Planning Inspectorate and Appellant setting out that the Council will now only be pursuing the appeal on the third reason for refusal and then to prepare evidence and defend the Council's case only in relation to the third reason for refusal.**
- 2. Finalise a Section 106 agreement with the Appellant to be submitted to the Planning Inspectorate.**

(Councillor Bowden abstained from the vote due to the interest he declared, and Councillor M. Airey did not vote as he arrived to Panel a few minutes into the debate of the item).

**PLANNING APPLICATIONS (DECISION)**

18/02391 Dr Marsden-Huggins: Construction of 56 bedroom hotel at SG Autopoint 437-441 St Leonards Road, Windsor SL4 3DT – **THIS ITEM WAS WITHDRAWN FROM THE AGENDA AT THE REQUEST OF THE APPLICANT.**

18/02929 Ms Prothero: Demolition of existing house and construction of new dwelling at 2 Bolton Crescent, Windsor SL4 3JQ – **THE PANEL VOTED to approve the application and grant planning permission with the conditions listed in Section 13 of the Main Report, in accordance with the Head of Planning's recommendations.**

**Eight Councillors voted in favour of the Motion to grant planning permission (Cllrs M. Airey, Alexander, Beer, Bicknell, Bowden, Quick, Shelim and E. Wilson), and one Councillor voted against (Cllr S. Rayner).**

(The Panel was addressed by Claire Miln in objection and Rhiannon Prothero the applicant).

18/03486 Mrs Jacobson: Two storey side extension, first floor rear extension with Juliet Balcony, single storey front extension, rendering to existing single storey rear element, roof lights and new first floor side window at 129 Springfield Road, Windsor SL4 3PZ – **THE PANEL VOTED to approve the application and grant planning permission with the conditions being delegated to Officers, against the Head of Planning's recommendations.**

**Eight Councillors voted in favour of the Motion to grant planning permission (Cllrs M. Airey, Alexander, Bicknell, Bowden, Quick, Shelim, S. Rayner and E. Wilson), and one Councillor voted against (Cllr Beer).**

(The Panel was addressed by Leona Jacobson the applicant).

ESSENTIAL MONITORING REPORTS (MONITORING)

All details of the Essential Monitoring Reports were noted.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

**RESOLVED UNANIMOUSLY:** That under Section 100 (A)(4) of the Local Government Act 1972, the public can be excluded from the remainder of the meeting whilst discussion takes place on item 8 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 – 7 of Part I of Schedule 12A of the act.

The meeting, which began at 7.00 pm, finished at 8.10 pm

CHAIRMAN.....

DATE.....

## ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

### Windsor Urban Panel

27th February 2019

#### INDEX

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.	18/03360/FULL	Recommendation	PERM	Page No.
Location:	The Sebastopol 137 Clewer Hill Road Windsor SL4 4DW					
Proposal:	Construction of 6 X one bedroom and 3 X two bedroom apartments with associated parking, pedestrian access gate to rear and amenity space following demolition of the existing building.					
Applicant:	Mr O'Sullivan	Member Call-in:		Expiry Date:	16 January 2019	
<hr/>						
Item No.	2	Application No.	18/03384/FULL	Recommendation	PERM	Page No.
Location:	Land To The Rear of Maynard Court Clarence Road Windsor					
Proposal:	Construction of x3 flats with associated parking, following demolition of x4 existing garages - part retrospective.					
Applicant:	Hawtrey Developments	Member Call-in:		Expiry Date:	4 March 2019	

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

**WINDSOR URBAN DEVELOPMENT CONTROL PANEL**

27 February 2019

Item: 1

<b>Application No.:</b>	18/03360/FULL
<b>Location:</b>	The Sebastopol 137 Clewer Hill Road Windsor SL4 4DW
<b>Proposal:</b>	Construction of 6 X one bedroom and 3 X two bedroom apartments with associated parking, pedestrian access gate to rear and amenity space following demolition of the existing building.
<b>Applicant:</b>	Mr O'Sullivan
<b>Agent:</b>	Mr Andrew Jenkins
<b>Parish/Ward:</b>	Windsor Unparished/Clewer South Ward

**If you have a question about this report, please contact:** Jo Richards on 01628 682955 or at [jo.richards@rbwm.gov.uk](mailto:jo.richards@rbwm.gov.uk)

**1. SUMMARY**

- 1.1 Planning permission is sought for the redevelopment of the site with a building comprising 9 flats. The application would involve the loss of the existing public house which is currently operational. Previous planning application 18/01335/FULL was refused on the grounds that the loss of the public house, deemed a community facility, had not been justified and secondly that the proposed development would be harmful to the character of the area as a result of its design and appearance and in particular its complicated roof form.
- 1.2 The current application has been accompanied by a greater amount of marketing evidence and a more detailed viability assessment, including evidence of accounts, such that it is considered that there is justification for the loss of the public house. Furthermore, a list of public houses offering similar facilities has been submitted in support of the application. It is considered that on balance the applicants have provided sufficient enough evidence in support of their application to show that whilst there is some local support for the site remaining in use for a public house, the current business is unviable, after a prolonged period of marketing there is no interest from other parties to take on the running of the premises as a pub or an alternative community facility and finally that there are other pubs within the vicinity which offer similar facilities for local residents.
- 1.3 Furthermore, the amendments to the external appearance and roof form have resulted in a building which would be compatible with the character and appearance of the surrounding area and thus there are no longer any objections to the design of the building.

**It is recommended the Panel grants planning permission with the conditions listed in Section 13 of this report.**

**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; such decisions can only be made by the Panel.

**3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 The application site consists of a public house and large hard-surfaced parking area situated on the corner of Clewer Hill Road and Park Corner in the settlement area of Clewer. The site occupies a corner plot on the junction of a crossroads where Park Corner and Kentons Lane meet Clewer Hill Road. The existing pub is a part single-storey, part two-storey building set back from Clewer Hill Road. There is little landscaping within the site. The surrounding area comprises

predominantly residential development in the form of two-storey dwellinghouses of differing scale and form.

#### **4. KEY CONSTRAINTS**

4.1 None

#### **5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

- 5.1 The proposal is for the redevelopment of the site for residential purposes. The proposed building would be three storeys high with the top floor of accommodation within the roof space. 9 units of residential accommodation are proposed, 3 2-bed and 6 1-bed, with 12 parking spaces laid out within a surface level parking area on the eastern part of the site. An area of soft landscaping is proposed to the front of the building fronting Clewer Hill Road.
- 5.2 This application follows a previous similar application for the redevelopment of the site for a flatted development, ref: 18/01335/FULL which was refused on grounds of i) loss of the public house which constitutes a community facility and ii) impact on the character of the area due to the visually prominent design of the building.

#### **6 DEVELOPMENT PLAN**

##### **Adopted Royal Borough Local Plan (2003)**

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

Issue	Local Plan Policy	Compliance
Design in keeping with character of area	DG1	Yes
Acceptable impact on appearance of area	DG1, H10 H11	No
Acceptable impact when viewed from nearby occupiers	H10, H11	Yes
Maintains acceptable level of privacy for nearby residents	H10, H11	Yes
Maintains acceptable level of daylight and sunlight for nearby occupiers	H10, H11	Yes
Sufficient parking space available	P4	Yes
Acceptable impact on the highway	T5	Yes
Provision of community facilities	CF1	Yes

These policies can be found at

[https://www3.rbwm.gov.uk/downloads/download/154/local\\_plan\\_documents\\_and\\_appendices](https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices)

#### **7. MATERIAL PLANNING CONSIDERATIONS**

##### **National Planning Policy Framework Sections (NPPF) (2018)**

Section 4- Decision-making

Section 9- Promoting Sustainable Transport

Section 12- Achieving well-designed places

##### **Borough Local Plan: Submission Version**

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Community Facilities	IF7
Sustainable Transport	IF2

- 7.1 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents have now been submitted to the Secretary of State for examination. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough. However, by publishing and submitting the Borough Local Plan for independent examination the Council has formally confirmed its intention to adopt the submission version. As the Council considers the emerging Borough Local Plan to be sound and legally compliant, officers and Councillors should accord relevant policies and allocations significant weight in the determination of applications taking account of the extent to which there are unresolved objections to relevant policies. Therefore, the weight afforded to each policy at this stage will differ depending on the level and type of representation to that policy. This is addressed in more detail in the assessment below.

This document can be found at:

[https://www3.rbwm.gov.uk/info/201026/borough\\_local\\_plan/1351/submission/1](https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1)

### Other Local Strategies or Publications

- 7.2 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy

More information on these documents can be found at:

[https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning)

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

28 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 29<sup>th</sup> November 2018.

16 letters were received objecting to the application (including 12 duplicate letters), summarised as:

Comment		Where in the report this is considered
1.	A second application should not have been submitted while the first application is still at appeal	There is no mechanism whereby the current application could not have been validated by the Planning Authority.
2.	The proposal is an overdevelopment of the site and would be out of character with the area	See section 9.15 – 9.21

3.	There is no affordable housing	There is no local or national requirement for an affordable housing contribution from a development of this scale.
4.	There is no benefit to the local community as a result of the proposal	The proposal is considered to meet the relevant planning policies for a proposal of this nature and would make a contribution to housing supply.
5.	Insufficient parking leading to on street parking and highway safety issues	No objection are raised by the Highways Authority with regard to parking or highways safety issues.
6.	If the pub was a non-profitable business then the applicant shouldn't have purchased it in the first place. It was purchased for redevelopment opportunity	See section 9.2 to 9.14
7.	The pub marking report and statistics were published in 2014 and therefore are of no relevance to this application	See section 9.2 – 9.14
8.	No improvement has been made to the pub to improve business suggesting the owner wants it to fail to support his application for re-development	See section 9.2 – 9.14
9.	The pub has always been a thriving pub when run properly	See section 9.2 – 9.14
10.	The pub business has been advertised incorrectly therefore causing it to lose business. For example it says it serves food when it doesn't	See section 9.2 – 9.14
11.	The pub would be a loss to the local community especially older customers who aren't able to walk/get the bus to other pubs.	See section 9.2 – 9.14
12.	Advertisement of the sale of the pub has been done so inaccurately	See section 9.2 – 9.14
13.	There has been a drastic decline in the number of pubs in the local area in recent years	See section 9.2 – 9.14
14.	Whilst housing is needed in the local area, this need is being fulfilled by housing allocation sites and other permissions for smaller developments already granted or being built out.	Smaller windfall sites still contribute to the overall housing supply within the Borough
15.	Dedworth is a densely populated area and only one choice of pub, i.e. the black horse is not adequate to serve the population	See section 9.2 – 9.14
16.	The current owner has purposefully let the pub business decline. Before he owned it the pub was thriving with a pool team and crib team. The kitchen has been closed and the hot drinks machine removed	See section 9.2 – 9.14
17.	The pub provides a support, company and facilities for the elderly, lonely to meet	See section 9.2 – 9.14
18.	The Council should let the pub become an asset of community value	See section 9.2 – 9.14
19.	The additional information submitted by the applicant regarding other pubs in the area is factually incorrect. 3 of the 7 pubs listed are a greater distance away than claimed and one is under threat of closure.	See section 9.2 – 9.14

## Consultees

Consultee	Comment	Where in the report this is considered
Highways	No objection, subject to condition	Noted
Environmental Protection	No objection subject to conditions	The matters arising from the comments submitted can be dealt with via informatives

## Others

Group	Comment	Where in the report this is considered
Windsor and Eton Society	Attempts to overcome the previous concerns regarding the design of the building has resulted in a band and uninspiring development. Minor changes to the design to reflect the local area could make a substantial difference to the appearance of the building. If the proposal is granted planning officers are encouraged to discuss the design detail further.	See section 9.15 – 9.21

## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i. Loss of community facility
- ii. Impact on character of the area
- iii. Impact on neighbouring occupiers
- iv. Highways/Parking
- v. Other material considerations

### Loss of community facility

9.2 Previous planning application ref: 18/01335/FULL was refused for the following reason:

*There is insufficient evidence submitted with the application to demonstrate that there is no longer a need for the community facility to justify its loss and the application does not propose alternative provision to be made elsewhere. Furthermore, the supporting information, in terms of the marketing report and viability appraisal, is lacking in evidence such that the policy requirements cannot be outweighed. The loss of this community facility would conflict with Paragraph 70 of the National Planning Policy Framework and Policy CF1 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted June 2003), and with Policy IF7 of the submission version of the Borough Local Plan.*

9.3 Paragraph 92 of the revised NPPF has replaced paragraph 70 which was quoted in the reason for refusal above. The current proposal should therefore be assessed against paragraph 92 of the revised NPPF which states that in order to provide social, recreational and cultural facilities and services the community needs, planning policies and decisions should, inter-alia, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. It is considered that both adopted planning policy CF1 and emerging policy IF7 are consistent with this approach.

9.4 Local Plan Policy CF1 relates to the loss of a community facility and states:

*'The Borough Council will not permit the loss of existing community facilities and buildings unless it is satisfied that:*

- 1. that there is no longer a need for them; or*
- 2. an acceptable alternative provision is to be made elsewhere'.*

9.5 Either of these criteria must be satisfied for the application to be considered acceptable with regards to this policy.

9.6 Borough Local Plan Submission Version policy IF1 (Community Facilities) advises that planning permission for development leading to the loss of facilities currently, or last used for the provision of community activities will only be granted where it can be demonstrated that :

- a. There is no longer a demand for the facility within the area, demonstrated by continuous marketing evidence for a period of at least 12 months, or
- b. the proposed development would provide sufficient community benefit to outweigh the loss of the existing facility, or
- c. there is provision for new or replacement facilities to meet an identified need in locations which are well related and easily accessible to the settlement or local community.

Significant weight can be given to this emerging policy.

9.7 The Borough Local Plan Submission Version Appendix Marketing and Viability Evidence sets out what marketing and viability evidence should contain, including specific consideration for pubs. Whilst this is part of the emerging Local Plan, it contains useful guidance and it is considered that this be used as a starting point for assessing the current application in terms of the quality of the submitted marketing and viability evidence.

9.8 Like the previous application, various information has been submitted in an attempt to meet these policy requirements. The information submitted includes 2 marketing reports, one from Davis Coffey Lyons and one from A3A4 Licensed property, and a viability assessment.

#### Marketing

9.9 The first marketing report is an updated version of that submitted with the previous application from a marketing agent called A3A4 Licensed property. It advises that the property has been marketed from 6<sup>th</sup> February 2017 and remains on the market today (report dated 2<sup>nd</sup> November 2018). The property was marketed online on the marketing company's website and via a marketing board placed outside the pub. The marketing price was offers in excess of £500,000 (freehold). Evidence of the online advert and marketing board (which was missing from the previous application) has been included at appendix 1 and 2 of this report. Appendix 4 includes 3 letters from agents advising that in their professional opinion the pub has been marketed at the correct price. Appendix 5 lists the enquires that were received from the start of the marketing period and includes 6 offers all lower than £400,000. The information included within this marketing report is of greater detail than that included within the previous application, including evidence of marketing methods and offers/enquiries received.

9.10 The second marketing report is by Davis Coffey Lyons dated 30<sup>th</sup> October 2018 and provides details of marketing with this different agent from 3<sup>rd</sup> September 2018. Marketing methods include an advertisement board on site and adverts in the Estates Gazette and The Morning Advertiser. The property is marketed at offers in excess of £475,000 freehold with leasehold rental offers invited. (An internet search reveals that the property advertisement remains on the website at the time of drafting this report).

9.11 As such, the application building can be said to have been marketed for a period of 24 months using two different marketing methods (on site advertisement board and online). The marketing has been carried out through two agents for its current use and the property has now been marketed at two different prices.

- 9.12 The marketing evidence complies with many of the requirements of the BLP Marketing and Viability Evidence Appendix. Whilst it is considered to be lacking in two areas, firstly that the premises has not been vacant while it has been marketed (a requirement of E.2) and secondly that the price the property was marketed at was only dropped after a period of 18 months unsuccessful marketing, it must be noted that the BLP marketing and viability guidance has not been adopted and therefore can only be given weight as material consideration. It is not considered that a refusal could be justified on this basis alone. It is therefore considered that the marketing information submitted with the application is robust and satisfies the requirements of current policy.

#### Viability

- 9.13 The viability report is an updated version of that submitted with the previous application but this time includes full accounts for the trading company and the management extractions from the previous 3 years. It advises that in order for the business to remain viable, it would need to have a weekly turnover of sales of £8,000 (based on realistic costs involved with running this type of business). The viability report concludes that the weekly sales are only in the region of £3,500 and therefore the business is operating at a loss as a wet led pub. It also advises that to operate as a food led pub, a required weekly turnover of sales would be approximately £9,000 and that the property is not capable of generating that level of sales. Whilst this report has not been independently verified, it concludes that there is a substantial difference between the weekly sales needed for the operation to be viable and the actual weekly sales.
- 9.14 Whilst comments received from neighbours raise concerns that the existing owner has allowed the business to decline and that in other hands the pub could be more profitable, the fact remains that in almost 2 years there have been no realistic offers from other potential buyers to continue to operate the site as a public house. Furthermore, the community has not formally identified and nominated the building as an asset of community value for potential listing.

#### Consideration of other supporting information

- 9.15 A table has also been submitted showing a list of other pubs in the nearby vicinity and the facilities they provide for their customers. Objections from residents outline concerns that some of these pubs are a greater distance away than that claimed meaning the only two which can be considered are The Black Horse and The Prince Albert, both of which are in a comfortable walking distance for residents in the Clewer area. Despite this, it is clear from the evidence submitted that there are other pubs within the local area of varying distances from the application site which provide opportunities for local residents to meet and socialise.
- 9.16 Taking into consideration the foregoing, it is considered that the applicants have provided sufficient information in relation to the current application to demonstrate that there is no longer a need for the community facility to remain. The loss of the existing use is therefore not objected to and complies with policy CF1.

#### **Impact on Character of the area**

- 9.17 The application site is situated within the settlement area, wherein, proposals for residential development can be acceptable in principle. In this case, the Council do not object in principle to the re-use of the site for residential purposes, given that the surrounding area is predominantly residential. The relevant adopted and emerging borough plan policies advise that new development should respect and enhance the local area. Specifically, emerging policy SP3 states that proposals should pay particular regard to urban grains, layouts, rhythm, density, scale, bulk massing and proportions.
- 9.18 Material to the assessment of the proposal is a very recent appeal decision relating to a three storey residential development at 9 Park Corner which was allowed on appeal on 23.05.2017, LPA ref: 16/01632/FUL. This development is currently under construction and when complete will sit immediately to the south of Nos. 1 and 3 Park Corner, a pair of semi-detached dwellings, which lie adjacent to the south boundary of the proposal site.

9.19 The proposal is similar in layout to that allowed on appeal at 9 Park Corner, with an L-shaped footprint and the building addressing both street scenes it faces. There is no objection in principle to this layout of development on a corner plot and it should be noted that the previous application was not objected to on grounds of overdevelopment of the site.

9.20 The previous application was refused on design grounds, specifically the reason for refusal stated:

*The proposed development would be sited on a prominent corner plot within the Clewer settlement area. The building is considered to appear visually prominent as a result of the differing ridge levels, the complicated roof form, the number of windows on the front elevation and prominent design features, all of which result in an irregular and awkward design which would appear out of character and harmful to the locality, contrary to local plan policies DG1, H10 and H11 set out in the The Royal Borough of Windsor & Maidenhead Local Plan (adopted June 2003) and policy SP3 of the emerging Borough Local Plan.*

9.21 The overall scale and layout of the proposed development remains the same as in the previous application, however various changes have been made to the external appearance and roof form of the building to enhance its appearance.

9.22 The front elevation (facing Clewer Hill Road) would now only have two differing ridge heights (as opposed to three within the previously refused scheme). The number of windows on the ground, first and second floor have also been reduced from a total of 16 to 11, resulting in a less busy front façade. The external wall of the angled section of the building would be flush with the corresponding eaves and the projecting gable has been omitted from the scheme. The side elevation (fronting Park Corner) now has one consistent ridge height and one consistent eaves height (as opposed to two within the previously refused scheme). It is considered that these changes to the scheme would reduce the prominence of the building within the street scenes of Clewer Hill Road and Park Corner, ensuring that it would be more compatible with the surrounding development. The comments from the Windsor and Eton Society Group are noted, however it is considered that the proposed changes are sufficient enough to ensure that the building would not appear prominent and that it would relate well to the surrounding area. The use of good quality materials will enhance the appearance of the building.

9.23 The application forms indicate that the materials to be used would be traditional comprising of red bricks and brown pantiles which would be acceptable in principle. Further detailed specifications are required however to ensure the proposal would be compatible with the character of the area and such details can be requested via condition (condition 2).

### **Impact on neighbouring occupiers**

9.24 Neighbouring property, No. 139 Clewer Hill Road, is situated immediately adjacent to the south-east and south-west boundaries of the site. This property is a two-storey dwellinghouse with no windows facing the application site. Its amenity area is situated to its south-east and adjacent to the proposed carpark. There would be no direct impact from the proposed building its juxtaposition with this neighbouring dwellinghouse and its garden area. The fact that the proposed parking area would be sited close to this neighbouring property raises little concerns given this is currently where the pub car park is positioned and thus the sound of vehicular movements will be heard by these neighbouring occupiers at present.

9.25 The other closest neighbouring properties are Nos. 1-3 Albert cottages which lie immediately to the south-west of the application site, fronting Park Corner. The section of the proposed building fronting Park Corner would sit largely in line with these neighbouring occupiers such that impact arising from this part of the development would be minimal. The section of the building fronting Clewer Hill Road, would back onto the flank boundary of No. 1 Albert Cottages at a distance of 12m away. This gap of separation is very similar to that between the development at No.9 Park Corner and its closet neighbour, No. 3 Albert Cottages, which was considered not to result in any harmful levels of overlooking to the neighbouring occupiers. Given the similarities between the

proposal and the approved development at No. 9 Park Corner in terms of layout and its relationship with neighbours, it is not considered that the proposal would result in overlooking or overdominance to these neighbouring occupiers at Nos. 1 and 3 Albert Cottages.

### **Impact on future residents**

- 9.26 The communal space serving the proposed development is very limited in size, and partly taken up by a cycle store. However, given the size of the garden area for the development at No. 9 Park Corner, which is also to serve 9 units, no objections are raised in this regard. It is noted that there is a wide grass area to the front of the proposed building which would add to the overall space free from development within the site. The proposed units are considered to have a good standard of internal accommodation.

### **Parking/Highways**

- 9.27 The proposal is for 6 1-bed units and 3 2-bed units. The 12 parking spaces shown is therefore sufficient to serve the development. Whilst three of the 1-bed units are the same size as some of the 2-bed units, they have been configured so that alterations would be required to convert them to 2-bed units. If built out as such, there would be a breach of the planning permission and enforcement action could be taken in the event that this occurs. For the purposes of this application however, the plans are sufficient to show that the level of parking is sufficient to serve a development of this nature.
- 9.28 No objections have been raised concerning visibility and impact on the highway. Further details are required regarding cycle and bin storage. Conditions have been recommended by the Highways Officer to ensure that the impact on the highway is acceptable (conditions 5, 6, 7 and 8).

### **Other Material Considerations**

#### Housing Land Supply

- 9.29 Paragraphs 10 and 11 of the NPPF (2018) set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 9.30 Footnote 7 of the NPPF (2018) clarifies that policies which are most important for determining the application are out-of-date, for applications involving the provision of housing, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).
- 9.31 Following the Regulation 19 consultation on the Submission Version of the Local Plan, the Council formally submitted in January 2018. The Borough Local Plan Submissions Version sets out a stepped housing trajectory over the plan period (2013-2033). As detailed in the supporting Housing Land Availability Assessment a five year supply of deliverable housing sites can be demonstrated against this proposed stepped trajectory. However as the BLPSV is not yet adopted planning policy, due regard also needs to be given regarding the NPPF (2018) standard method in national planning guidance to determine the minimum number of homes needed for the borough. At the time of writing, based on this methodology the Council is able to demonstrate a five year rolling housing land supply based on the current national guidance.

## **10. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 10.1 The development is CIL liable. The proposed floorspace of the proposed development is 615 sqm.

## **11. CONCLUSION**

- 11.1 It is considered that the applicant has demonstrated compliance with local plan policy CF1 and paragraph 92 of the NPPF through the submission of detailed marketing and viability information to demonstrate that there is no longer a need for the public house.
- 11.2 Furthermore, the proposal would result in the addition of 9 new residential units which would add to the Council's housing stock in an urban area of Windsor containing predominantly residential development. The proposed building is considered to be of a design and scale which would be compatible to the surrounding area. Significant weight has been given to the development which was allowed at appeal at 9 Park Corner which is very similar to that under consideration.

## **12. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan and site layout
- Appendix B – plan and elevation drawings

## **13. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED**

- 1 The development hereby permitted shall be commenced within three years from the date of this permission.  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 No development above slab level shall take place until details of the materials to be used on the external surfaces of the development have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.  
Reason: In the interests of the visual amenities of the area. Relevant Policy DG1
- 3 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 five 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, unless the Local Planning Authority gives its prior written consent to any variation.  
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.
- 4 No development shall commence until details of all finished slab levels in relation to ground level (against OD Newlyn) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.  
Reason: In the interest of the visual amenities of the area. Relevant Policy Local Plan DG1.
- 5 Prior to the commencement of any works of demolition or construction a management plan showing how demolition and construction traffic, (including cranes), materials storage, facilities for operatives and vehicle parking and manoeuvring will be accommodated during the works period shall be submitted to and approved in writing by the Local Planning Authority. The plan

shall be implemented as approved and maintained for the duration of the works or as may be agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5.

- 6 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 space approved shall be kept available for parking and turning in association with the development.  
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.
- 7 No part of the development shall be occupied until covered and secure cycle parking facilities have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be kept available for the parking of cycles in association with the development at all times.  
Reason: To ensure that the development is provided with adequate parking facilities in order to encourage the use of alternative modes of transport. Relevant Policies - Local Plan T7, DG1
- 8 No part of the development shall be occupied until a refuse bin storage area and recycling facilities have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall be kept available for use in association with the development at all times.  
Reason: To ensure that the development is provided with adequate facilities that allow it to be serviced in a manner which would not adversely affect the free flow of traffic and highway safety and to ensure the sustainability of the development. Relevant Policies - Local Plan T5, DG1.
- 9 The development hereby permitted shall be carried out in accordance with the approved plans listed below.  
Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

## **Informatives**

- 1 The attention of the applicant is drawn to the Berkshire Act 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway or grass verge arising during building operations.
- 2 The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which enables the Highway Authority to recover expenses due to extraordinary traffic.
- 3 In order to protect the stability of the highway it is advised that no excavation is carried out within 15 metres of a public highway without the written approval of the Highway Authority. The Highway Manager should be contacted at the Town Hall, St Ives Road, Maidenhead, SL6 1RF tel: 01628 796595.
- 4 Any incidental works affecting the adjoining highway shall be approved by, and a licence obtained from the The Streetcare Services Manager at Tinkers Lane Depot Tinkers Lane Windsor SL4 4LR tel: 01628 796801 at least 4 weeks before any development is due to commence.
- 5 No builders' materials, plant or vehicles related to the implementation of the development should be parked/stored on the public highway so as to cause an obstruction at any time.
- 6 Due to the close proximity of the site to existing residential properties, the applicant's attention is drawn to the Considerate Constructors Scheme initiative. This initiative encourages contractors and construction companies to adopt a considerate and respectful approach to construction works, so that neighbours are not unduly affected by noise, smells, operational hours, vehicle

parking at the site or making deliveries, and general disruption caused by the works. By signing up to the scheme, contractors and construction companies commit to being considerate and good neighbours, as well as being clean, respectful, safe, environmentally conscious, responsible and accountable. The Council highly recommends the Considerate Constructors Scheme as a way of avoiding problems and complaints from local residents and further information on how to participate can be found at [www.ccscheme.org.uk](http://www.ccscheme.org.uk)

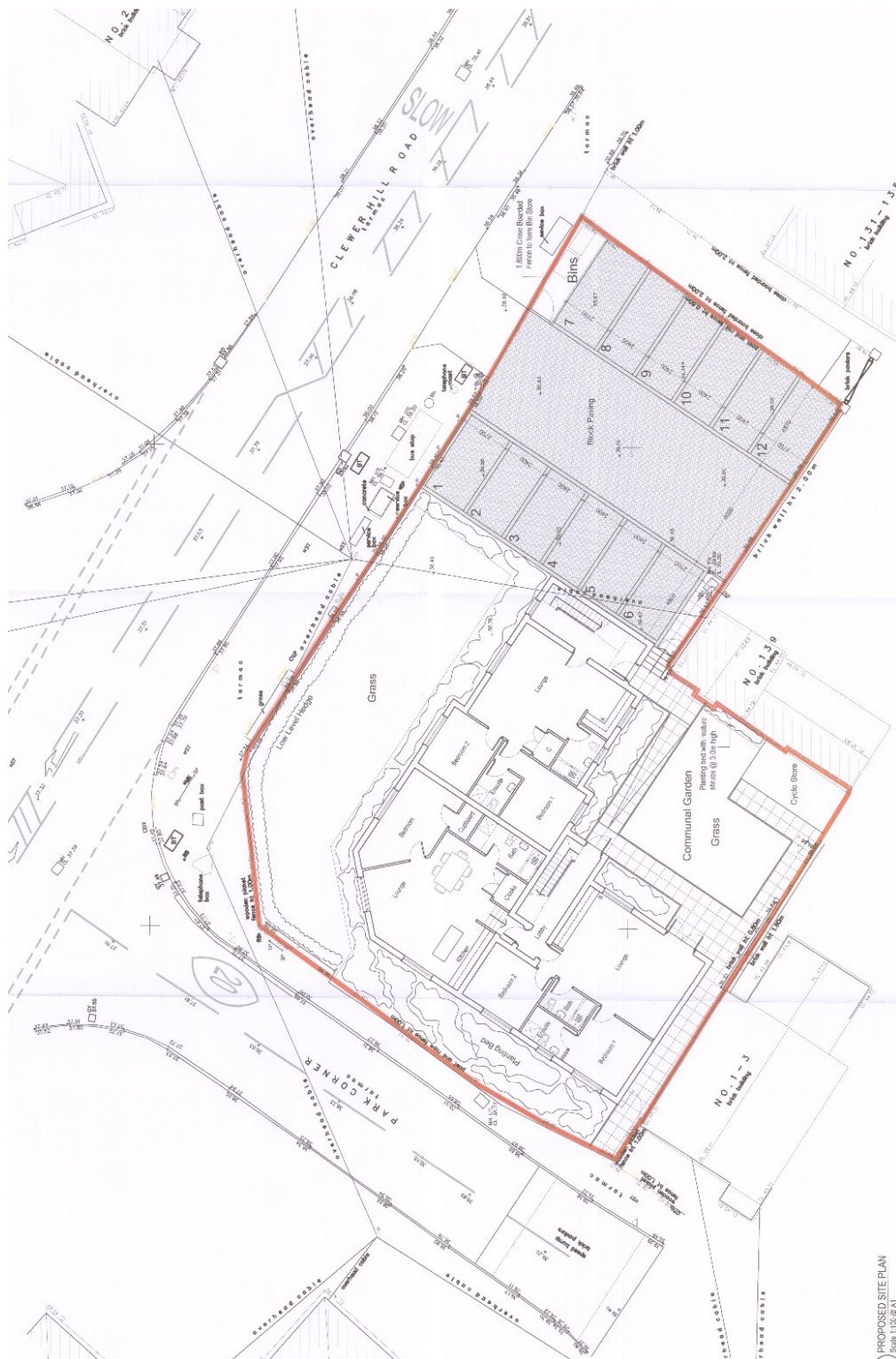
- 7 The applicant will be required to comply with the Royal Borough of Windsor and Maidenhead Local Plan Policy (Plan NAP2) subsection 2.5.4 which states where such development is permitted: sound insulation measure should be incorporated to keep internal levels below 40dB(A). Applicants are invited to contact the Environmental Health Unit, Environmental Protection Team Leader on 01628 683645 for a copy of the aircraft noise insulation guidance notes.
- 8 The Royal Borough receives a large number of complaints relating to construction burning activities. The applicant should be aware that any burning that gives rise to a smoke nuisance is actionable under the Environmental Protection Act 1990. Further that any burning that gives rise to dark smoke is considered an offence under the Clean Air Act 1993. It is the Environmental Protection Team policy that there should be no fires on construction or demolition sites. All construction and demolition waste should be taken off site for disposal. The only exceptions relate to knotweed and in some cases infected timber where burning may be considered the best practicable environmental option. In these rare cases we would expect the contractor to inform the Environmental Protection Team before burning on 01628 68 3830 and follow good practice.

## Appendix A—Site location plan and site

### Location Plan

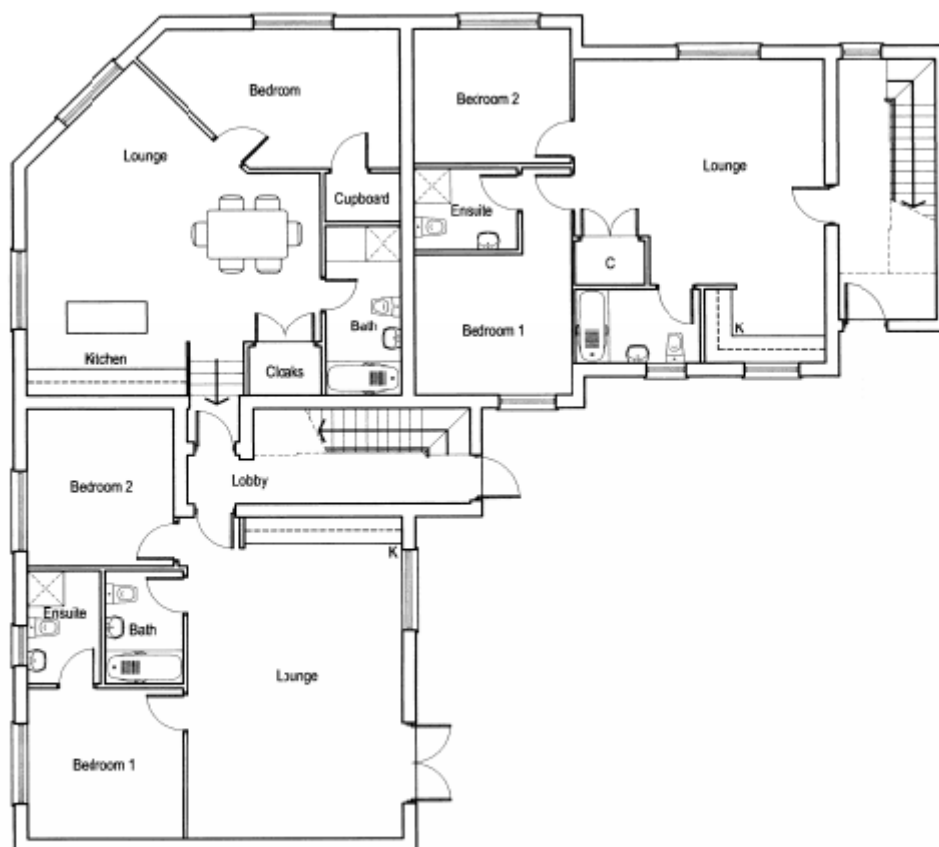


### Proposed site plan



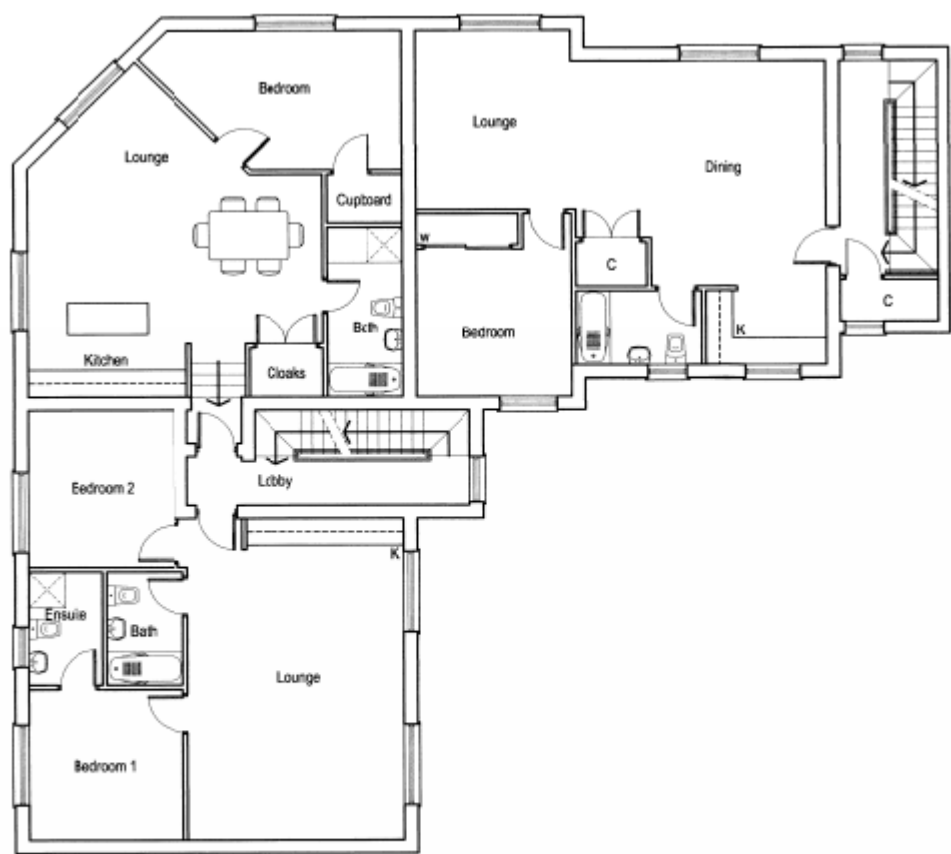
## Plan and elevation drawings

### Ground floor plan



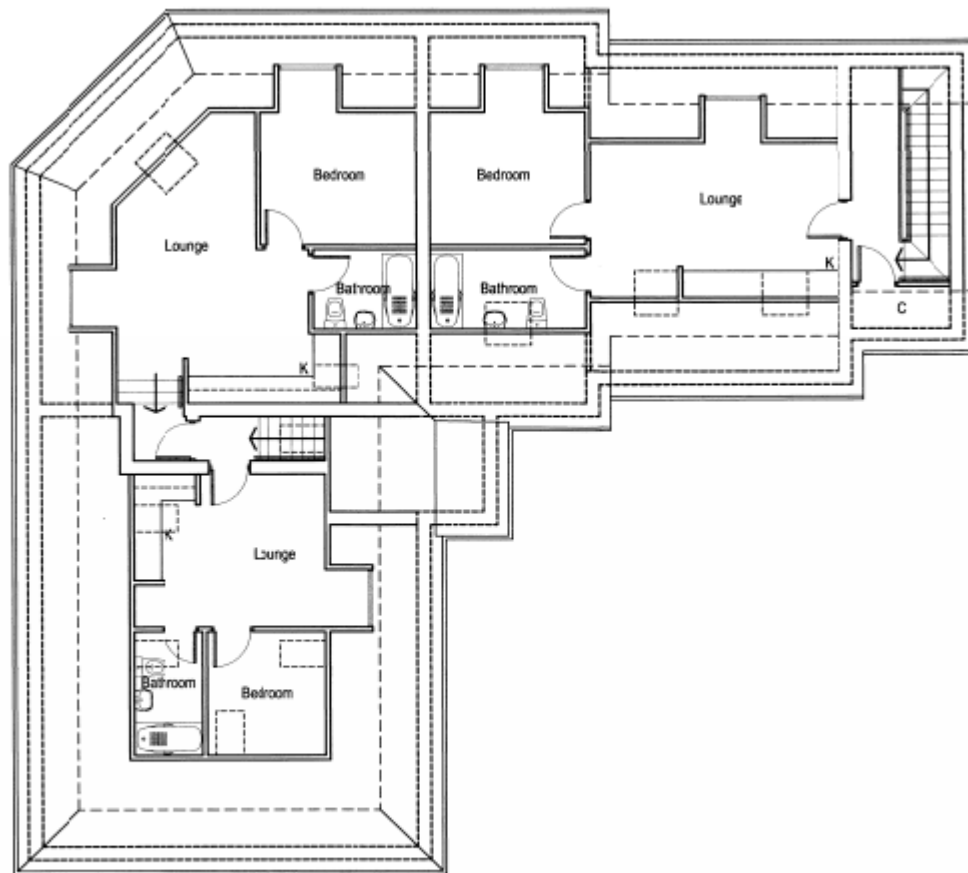
01 GROUND FLOOR  
Scale 1:500 @ A1

First floor plan



02 FIRST FLOOR  
Scale 1:100 @ A1

Second floor plan



03 SECOND FLOOR  
Scale 1:100 @ A1

Front elevation

(Facing Clewer Hill Road)



04 PROPOSED FRONT ELEVATION (North)  
Scale 1:100 @ A1

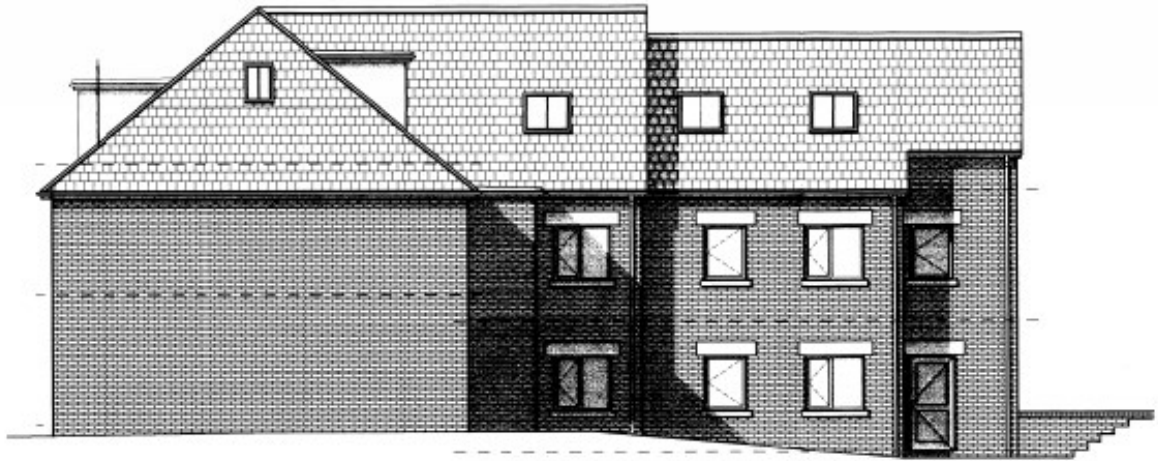
Side elevation

(Facing Park Corner)



05 PROPOSED SIDE ELEVATION (West)  
Scale 1:100 @ A1

Proposed side/rear elevation



06 PROPOSED SIDE/REAR ELEVATION (South)  
Scale 1:100 @ A1

Proposed side/rear elevation



07 PROPOSED SIDE/REAR ELEVATION (East)  
Scale 1:100 @ A1

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

27 February 2019

Item: 2

**Application No.:** 18/03384/FULL

**Location:** Land To The Rear of Maynard Court Clarence Road Windsor

**Proposal:** Construction of x3 flats with associated parking, following demolition of x4 existing garages - part retrospective.

**Applicant:** Hawtrey Developments

**Agent:** Mr Sundeep Saxena

**Parish/Ward:** Windsor Unparished/Clewer North Ward

**If you have a question about this report, please contact:** Haydon Richardson on 01628 796697 or at haydon.richardson@rbwm.gov.uk

### 1. SUMMARY

- 1.1 Due to its design, scale and location at the rear of Maynard Court the proposal is not considered to harm the character and appearance of the area. Furthermore the new layout and section drawing, shows that Flat C would have good access to light, ample head room and would comply with national floorspace standards; ultimately providing an acceptable level of amenity for its future resident. 10 garages would remain for the parking of the 10 Maynard court residents. 5 parking spaces would be provided for the new flats and 7 additional spaces would be provided. A site specific FRA has been submitted which details how the development will minimise flood risk in the area and prevent future residents from coming to harm in the event of a flood.
- 1.2 It should also be noted that the proposed development is very similar to other approved schemes at the site (18/02085 and 15/00905). These schemes form a viable fall-back position for the applicant and are a significant material consideration in the determination of this application.
- 1.3 For the reasons mentioned above the proposed development is considered to be in compliance with Local Plan Policies DG1, H10, H11, T5, P4, as well as Borough submission plan policy SP3 and sections 12 and 14 of the NPPF (2018).

**It is recommended the Panel grants planning permission with the conditions listed in Section 13 of this report.**

### 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; such decisions can only be made by the Panel.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The proposed maisonettes would be situated on land to the rear of Maynard Court flats. The application site includes single storey garages, hardstanding and the access road which serves the flats at Maynard Court.
- 3.2 To the west of the site is a petrol filling station and garage. To the north and east of the site are residential properties.

### 4. KEY CONSTRAINTS

- 4.1 Updated Environment Agency maps show that the site lies entirely within flood zone 2.

## 5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The applicant seeks planning permission for the construction of 3 flats with associated parking, following the demolition of 4 existing garages (part retrospective).
- 5.2 Similar developments have been granted planning permission at the site, as such works have commenced and the shell of the building exists. The mentioned garages have also been demolished.
- 5.3 When compared with the most previously approved scheme (18/02085) this proposal differs in that bedroom 3 has been converted into a third flat. The size and external design of the building is identical.

Reference	Description	Decision
14/01328/FULL	Erection of 2 x maisonettes with associated parking and access following the demolition of 4 x existing garages	Withdrawn on the 13th June 2014
15/00905/FULL	Erection of 2 x maisonettes with associated parking and access following the demolition of 4 x existing garages	Refused 12.06.2015 and <b>allowed</b> at appeal (APP/T0355/W/15/3135834) 03.03.2016
17/03439/FULL	Erection of 3 x maisonettes with associated parking following the demolition of 4 x existing garages.	Refused 31.01.2018 and <b>dismissed</b> at appeal (APP/T0355/W/18/3199532) 11.10.2018
18/02085/FULL	Erection of 2 x maisonettes with associated parking following the demolition of 4 x existing garages (Retrospective).	Approved - 19.10.2018

## 6 DEVELOPMENT PLAN

### Adopted Royal Borough Local Plan (2003)

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

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10,H11
Highways	P4 AND T5
Flooding	F1

These policies can be found at

[https://www3.rbwm.gov.uk/downloads/download/154/local\\_plan\\_documents\\_and\\_appendices](https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices)

## 7. MATERIAL PLANNING CONSIDERATIONS

### National Planning Policy Framework Sections (NPPF) (2018)

- Section 12- Achieving well-designed places
- Section 14- Meeting the challenge of climate change, flooding and coastal change

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Sustainable Transport	IF2
Mitigating flooding and flood impacts	NR1
Housing policies	HO2, HO3, HO5
Manages flood risk and waterways	NR1

7.1 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents have now been submitted to the Secretary of State for examination. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough. However, by publishing and submitting the Borough Local Plan for independent examination the Council has formally confirmed its intention to adopt the submission version. As the Council considers the emerging Borough Local Plan to be sound and legally compliant, officers and Councillors should accord relevant policies and allocations significant weight in the determination of applications taking account of the extent to which there are unresolved objections to relevant policies. Therefore, the weight afforded to each policy at this stage will differ depending on the level and type of representation to that policy. This is addressed in more detail in the assessment below.

7.2 This document can be found at:  
[https://www3.rbwm.gov.uk/info/201026/borough\\_local\\_plan/1351/submission/1](https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1)

#### **Other Local Strategies or Publications**

7.3 Other Strategies or publications relevant to the proposal are:

- RBWM Parking Strategy

More information on these documents can be found at:

[https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning)

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

8.1 A site notice was posted at the site on **10/12/18** and **20** neighbouring properties were directly notified of the proposed development.

8.2 In response to the consultation process **7** letters were received objecting to the application, summarised as:

Comment	Where in the report this is considered
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1.	The proposed development would constitute overdevelopment of the site.	Several schemes of similar height, scale and design have been approved at the site; by the planning inspectorate and LPA. As such the proposal is considered to be appropriate for the site and no worse than the fall back positions.
2.	The development would lead to further flooding and flood risk issues in the area.	See paragraphs 9.2 -9.7 of the report.
3.	The proposed development is similar to a previous refusal at the site and therefore should not be approved	Each application should be determined on its own merits and revisions have been made to the scheme since the previous refusal.
4.	The development is likely to cause severe parking pressures on the site, as well as on its access and egress routes. Existing resident vehicles would also be displaced onto the public highway. As the previous application would retain 10 spaces for existing residents and this scheme would not.	Ownership and user rights of the land to the rear of the site is a legal matter. Notwithstanding this point an extant permission exists at the site which includes a similar parking layout and demolition plans to this proposal (18/02085 and 15/00905). As such the parking spaces to the rear of the site could be removed regardless of this applications outcome.
5.	The bin stores are located near a narrow public footpath near Maynard court and should be located nearer to the flats; where they are less likely to be obstructive.	The bin storage area is set back from the access road, in an accessible location for new residents and refuse collectors.
6.	The amenities in the area are not adequate to support 3 flats. The development would also adversely impact on the amenities of existing occupiers of Maynard Court	See paragraphs 9.11 - 9.15 of the report.
7.	The parking facilities for the new development are on land allocated as 'gardens' for the residents of Maynard Court, therefore the developers cannot use the land for parking.	See paragraphs 9.16 - 9.18 of the report.

## Consultees

Consultee	Comment	Where in the report this is considered
Highways department	No objection subject to conditions requiring the submission of plans showing where cycle storage facilities and bin store facilities will be located.	See paragraphs 9.16 -9.18 of the report.
Environmental Agency	No comments have been received.	
Environmental	No objection subject to conditions requiring the	Noted see

Protection	submission of acoustic insulation details.	paragraphs 9.11-9.13 of the report.
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## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i The impact of the proposal on flooding and flood risk
- ii The impact on the character and appearance of the area
- iii The impact on amenities of neighbouring properties and future residents
- iv Impact on parking provision and traffic conditions in the area

### Flooding

9.2 The proposed development is sited within Flood Zone 2 and is classified as more vulnerable development. NPPG guidance suggests that more vulnerable development in flood zone 2 is appropriate, so long as it meet the requirements of the sequential test.

9.3 The applicants have submitted a site specific FRA. The assessment shows no consideration of other sites that are at lower risk of flooding and are of an appropriate size. Instead it suggests that the sequential test was passed in 2015 and nothing has changed since then. The approach outlined in the applicants FRA is not considered to meet the requirements of the sequential test, however an extant permission for a similar development exists at the site (18/02085) and works have commenced at site. For this reason the location of the proposed development is considered to be acceptable.

9.4 Paragraph 163 of the NPPF states that ‘when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

9.5 When compared with the extant scheme this proposal differs in that the 2<sup>nd</sup> floor attic bedroom would now form a studio flat and subsequently the building would have 3 flats instead of 2. There are no changes in the external appearance of the building when compared with the extant scheme, nor is there any increase in the footprint of the building. As such the proposed change would not reduce the floodplains ability to store water in the event of a flood. The finished floor levels of the development would be 300mm above the 1 in 100 annual flood probability (including +35% allowance for climate change) in line with NPPG and EA guidance. Like the extant scheme the access and escape route finishes on Clarence road and each of the occupiers will be encouraged to sign up to the EA’s flood warning and information service.

- 9.6 For the reasons outlined above and taking into consideration that a similar scheme can be built at the site, the proposal is considered to be acceptable on flooding grounds.
- 9.7 A condition will be added to ensure that the development is carried out in accordance with the submitted FRA.

### **Design**

- 9.8 National Planning Policy Framework, Section 12 (Achieving well designed places) and Local Plan Policy DG1, advises that all development should seek to achieve a high quality of design that improves the character and quality of an area. Similarly Policy H10 and H11 advises that new residential schemes should display high standards of design to create diverse and attractive areas; development is unacceptable where it would introduce a scale or density which is incompatible with, or harmful to the character and amenity of an area. Emerging Borough Local Plan Policy SP3 suggests that new development should respects and enhance the local, natural or historic character of the environment in which it is located. It should also pay regard to urban grain, layouts, rhythm, density, scale, bulk, massing, proportions, trees, water features, enclosure and materials.
- 9.9 The scale and design of the proposed development is identical to the most recently approved scheme 18/02085 and is also very similar to a scheme approved at appeal by the planning inspectorate (APP/T0355/W/15/3135834). When compared with the approved 2018 scheme, only the internal layout of the building has changed to accommodate the new 2<sup>nd</sup> floor flat. When compared with the inspectors approved scheme, this scheme includes a half hip, partly inset balcony and a 350mm ridge height rise. Cycle and refuse storage have also been added to the front of the site and the building has also been moved slightly further forward in the plot. The inspector assessing the appeal for 15/00905 found that the position of the development behind Maynard Court was acceptable given the pattern of development within the area and considered the space around the building to be sufficient to prevent the development from appearing cramped. The inspector concluded that the development would not harm the character and appearance of the area and that both local and national policies would be complied with.
- 9.10 For the reasons set out above it is considered that the proposals impact on the character and appearance of the area remains acceptable.

### **Amenity**

- 9.11 The building is sited a reasonable distance from other dwellings within the area; as such it would have no overbearing impact on them or their gardens, nor would it impede views from windows or block their ability to receive day or sunlight. The proposed balcony would provide views toward the site's tree lined boundaries, the neighbouring petrol station and residential gardens, however due to its distance from each neighbouring property it is unlikely to cause any significant overlooking or loss of privacy. Furthermore the balcony is too small for external entertaining so is unlikely to cause any significant increase in noise. The amenity space to the rear of the building will be the same size as the extant scheme.
- 9.12 Several conditions were suggested by environmental protection regarding air quality management and acoustic insulation. Although the information requested is considered to be relevant to this application. An extant permission exists (18/02085) at the site for a similar development and that permission could be built out without the requested information, and therefore it is considered unreasonable to add those conditions or refuse this application on the absence of the mentioned information.
- 9.13 A similar application (comprising 3 flats) was recently refused by the LPA and dismissed at appeal. One of the inspector's reasons for dismissing the appeal related to the inadequate living conditions which would be provided in the loft flat. The inspector stated that:

*'The proposed Flat C in the roof storey is shown to have a Gross Internal Area (GIA) of 50m<sup>2</sup>, which would, using as a guide the figure set out in the NDSS for a one bed, two person flat on one story, be acceptable. However, as the flat would be set within the roof space, and all rooms*

*within it affected by the slope of the roof, the useable floorspace could potentially be significantly reduced by inadequate headroom. As the submitted drawings do not provide either sections or an indication of the useable floorspace in relation to headroom, I cannot as a result be certain the development would provide an adequate internal living space, or that the awkwardly shaped spaces would be capable of adequately accommodating built-in storage, furniture or fixed services or equipment such as a boiler. The lighting of the bedroom to Flat C, a habitable room, with only a pair of skylights would provide very limited outlook and, therefore a limited standard of accommodation in that respect. Consequently, I conclude that there is a significant likelihood that an inadequate standard of living space would be provided, which would be harmful to the living conditions of future occupiers of the flat'.*

- 9.14 Since then part sectional drawings have been provided which show that over 75% of the flat would have a head height above 2.3m in compliance with the Nationally Described Space Standards for housing. The layout of the flat has also been changed so that it would be a studio unit and the sleeping quarters/living space are located in the more spacious part of the flat. The living space would also receive light from several skylights, the balcony and kitchen window. It should also be noted that the shell of the building has been constructed and upon visiting Flat C it was evident that adequate head height and amenity space would be provided for any future occupier. The concerns raised by the inspector regarding amenity are therefore considered to be overcome.
- 9.15 Taking into consideration the above, the proposal is considered to provide an acceptable level of amenity for future residents and to cause no harm to the amenities of surrounding properties.

#### **Highways, parking and refuse storage**

- 9.16 The existing access off Clarence Road would serve the development; this is considered to be acceptable as there are adequate visibility splays. It is estimated that the vehicle movements will increase by 10-20 per day; which is unlikely to have any significant impact on highway safety.
- 9.17 The 3 new flats would require 5 off road parking spaces and those spaces are shown to be provided on Plan.no Maynard/PL05G. As such sufficient space would remain on the site to accommodate the car parking for the resulting dwelling in compliance with the adopted parking standards in Appendix 7 of the Local Plan as amended by the Royal Borough of Windsor and Maidenhead Parking Strategy, May 2004.
- 9.18 Plan no.Maynard/PL05G also shows that the existing 10 garages will be retained for the residents of Maynard Court and an additional 7 car parking spaces would be provided at the site.
- 9.19 The highways officer has requested that a condition be added showing a new position for refuse and recycling facilities. However there is no other viable position, within the development site, that is accessible for the new residents, but also refuse collectors. For these reasons the siting of the storage facility as submitted is considered to be the best option.
- 9.20 Conditions relating to cycle storage, refuse facilities, turning areas and the provision of parking spaces have been added to ensure the impact of the development on the highways network is acceptable.

#### **10. Other Considerations**

- 10.1 The development is CIL liable and the calculated fee is £39,600; charged at £240 per m<sup>2</sup> of residential floor space.
- 10.2 Significant weight is to be accorded to the relevant Borough Local Plan Submission Version policies in this case (with the exception of Policy NR1). The above application is considered to comply with the relevant policies listed within the Development Plan and the Borough Local Plan Submission Version.

## **11. CONCLUSION**

- 11.1 Due to its design, scale and location at the rear of Maynard Court the proposal is not considered to harm the character and appearance of the area or to be of a size, which is disproportionate to the site. Furthermore the new layout and section drawing, shows that Flat C would have good access to light, ample head room and would comply with national floorspace standards; ultimately providing an acceptable level of amenity for its future resident. 10 garages would remain for the parking of the 10 Maynard court residents. 5 parking spaces would be provided for the new flats and 7 additional spaces would be provided. A site specific FRA has been submitted which details how the development will minimise flood risk in the area and prevent future residents from coming to harm in the event of a flood.
- 11.2 For the reasons mentioned above the proposed development is considered to be in compliance with Local Plan Policies DG1, H10, H11, T5, P4, as well as Borough submission plan policy SP3 and sections 12 and 14 of the NPPF (2018).
- 11.3 It should also be noted that the proposed development is very similar to several other approved schemes at the site (18/02085 and 15/00905). These schemes form a viable fall-back position for the applicant and are a significant material consideration in the determination of this application.

## **12. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan
- Appendix B – Proposed elevations and floorplans
- Appendix C – Previously approved Plans

## **13. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED**

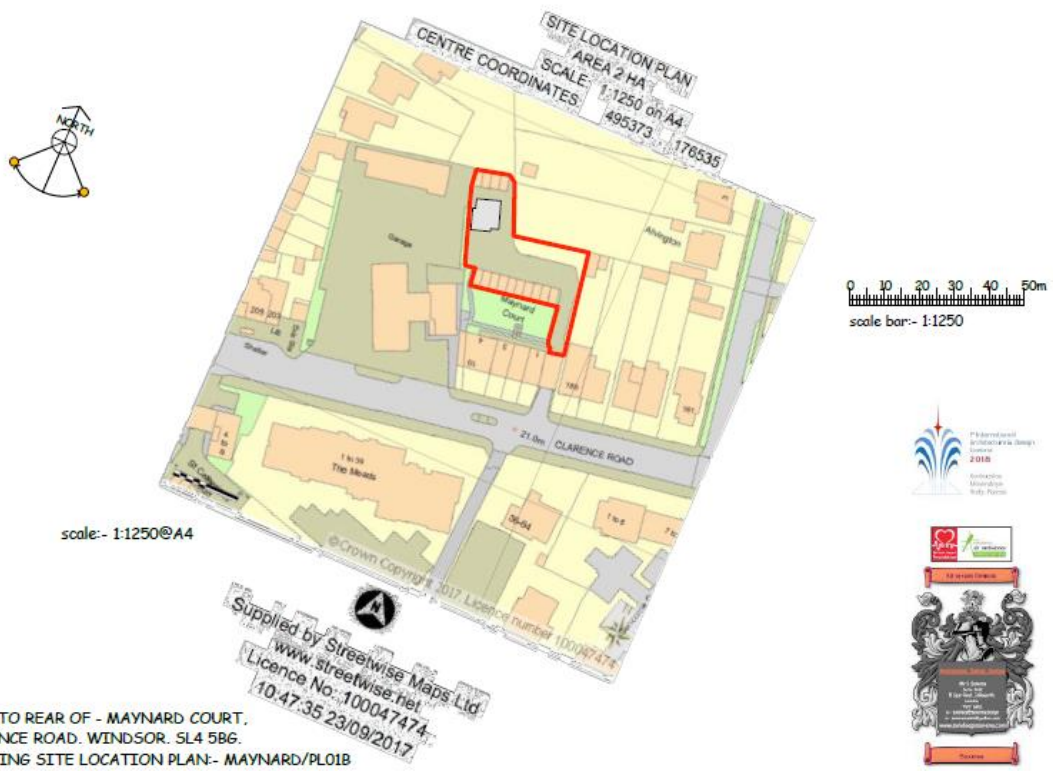
- 1 The development hereby permitted shall be commenced within three years from the date of this permission.  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 No part of the development shall be occupied until covered and secure cycle parking facilities have been provided in accordance with approved plan no. Maynard/PLO5G received 20/11/18. Thereafter these facilities shall be kept available for the parking of cycles in association with the development at all times.  
Reason: To ensure that the development is provided with adequate parking facilities in order to encourage the use of alternative modes of transport. Relevant Policies - Local Plan T7, DG1
- 3 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 Maynard/PLO5G received 20/11/18. The spaces approved shall be kept available for parking and turning in association with the development.  
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.
- 4 The first floor window(s) in the side elevation(s) of the dwelling shall be of a permanently fixed, non-opening design, with the exception of an opening toplight that is a minimum of 1.7m above the finished internal floor level, and fitted with obscure glass and the window(s) shall not be altered 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 H14.
- 5 No development shall take place until samples of the materials to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the

approved details.

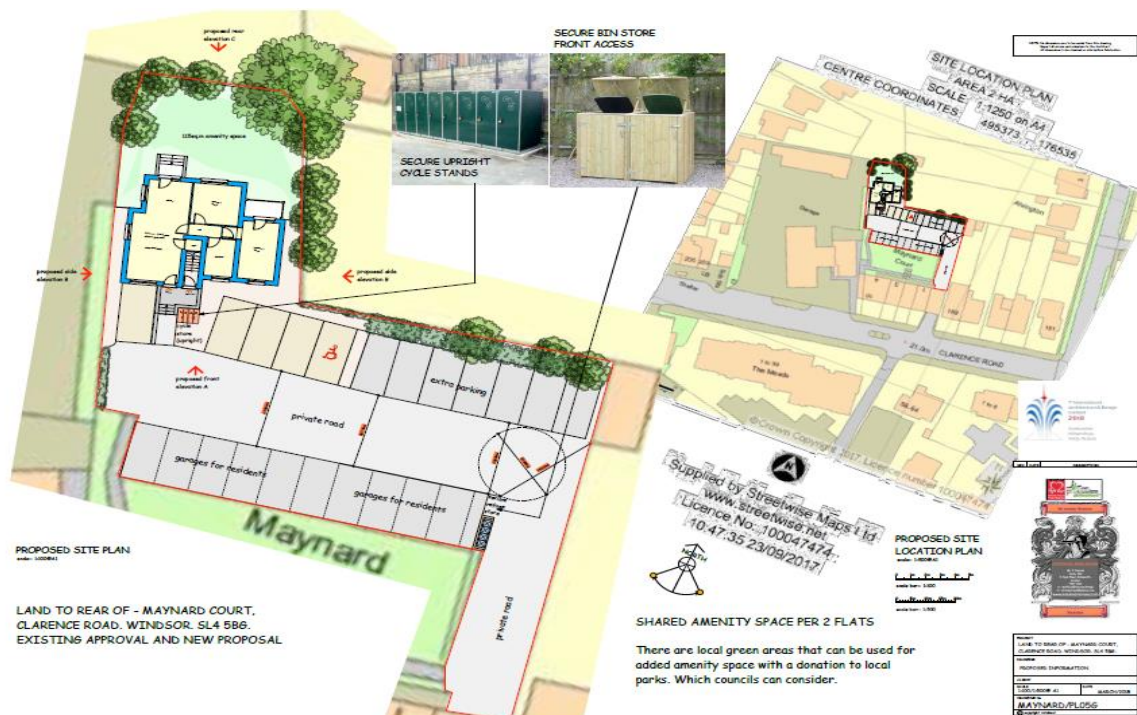
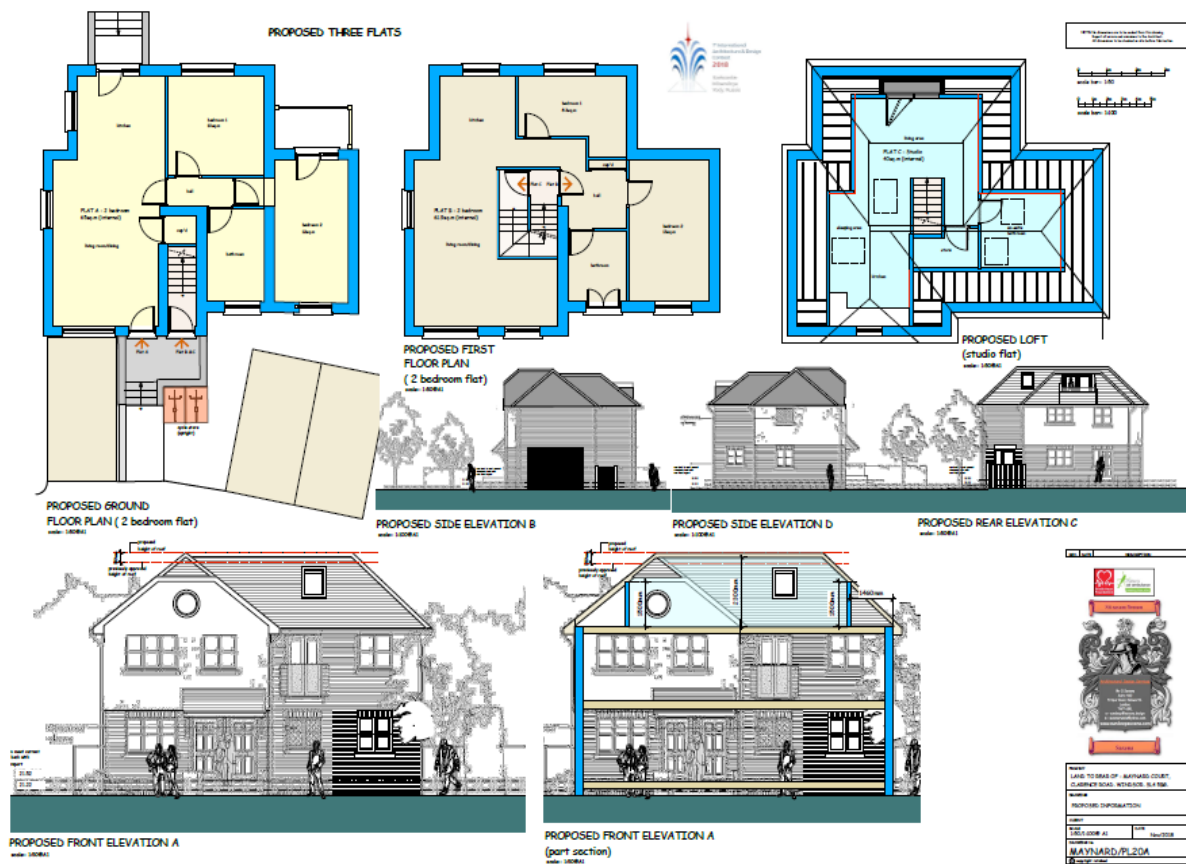
Reason: In the interests of the visual amenities of the area. Relevant Policy DG1, H10, H11.

- 6 Prior to the commencement of any landscaping works, a scheme of landscaping works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. All work shall be carried out in the first planting season after commencement of the development unless agreed otherwise in writing by the local planning authority, and shall be maintained for a period of 5 years. Any trees and shrubs that die within 5 years shall be replaced with a like for like species.  
Reason: In the interests of the visual amenities of the area. Relevant Policy DG1, H10, H11.
- 7 The development hereby permitted shall be carried out in accordance with the details and measures set out in 'Land to the Rear of Maynard Court, Windsor - Flood Risk Assessment, reference number 43215/4002, dated March 2018 and updated 09/11/18, prepared by Peter Brett Associates. This shall include finished floor levels will be set no lower than 21.52 metres above Ordnance Datum and the provision of under floor void spaces and openings. Once provided, the mitigation measures shall thereafter be retained.  
Reason: To ensure that the development is flood resilient and that future residents are protected from the risk of flooding at the site Relevant Policies - Local Plan F1.
- 8 No window(s) shall be inserted at first floor level or above, in either side elevation of the dwelling 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 H14.
- 9 No part of the development shall be occupied until the refuse bin storage area and recycling facilities have been provided in accordance with the details shown on approved drawing Maynard/PL05G received 20/11/18. Thereafter, the facilities shall be kept available for use in association with the development at all times.  
Reason: To ensure that the development is provided with adequate facilities that allow it to be serviced in a manner which would not adversely affect the free flow of traffic and highway safety and to ensure the sustainability of the development. Relevant Policies - Local Plan T5, DG1.
- 10 The development hereby permitted shall be carried out in accordance with the approved plans listed below.  
Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

## Appendix A - Location Plan

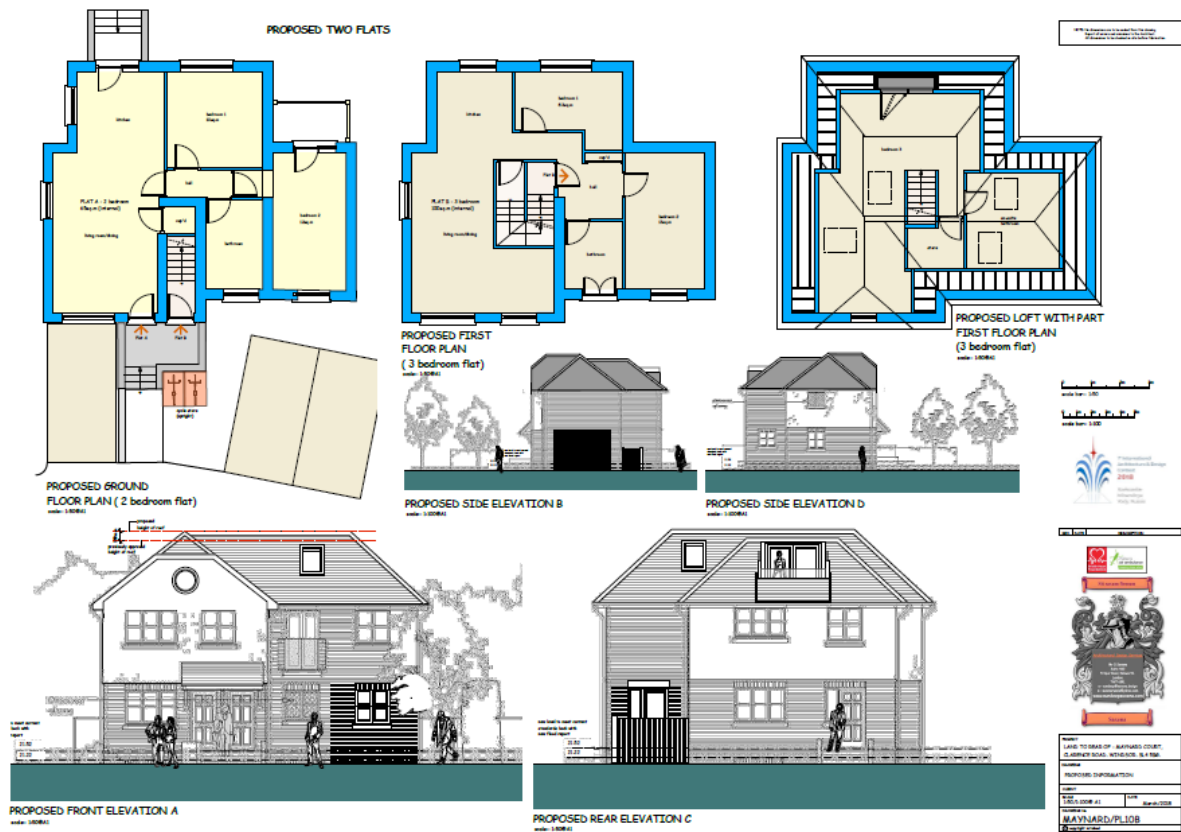


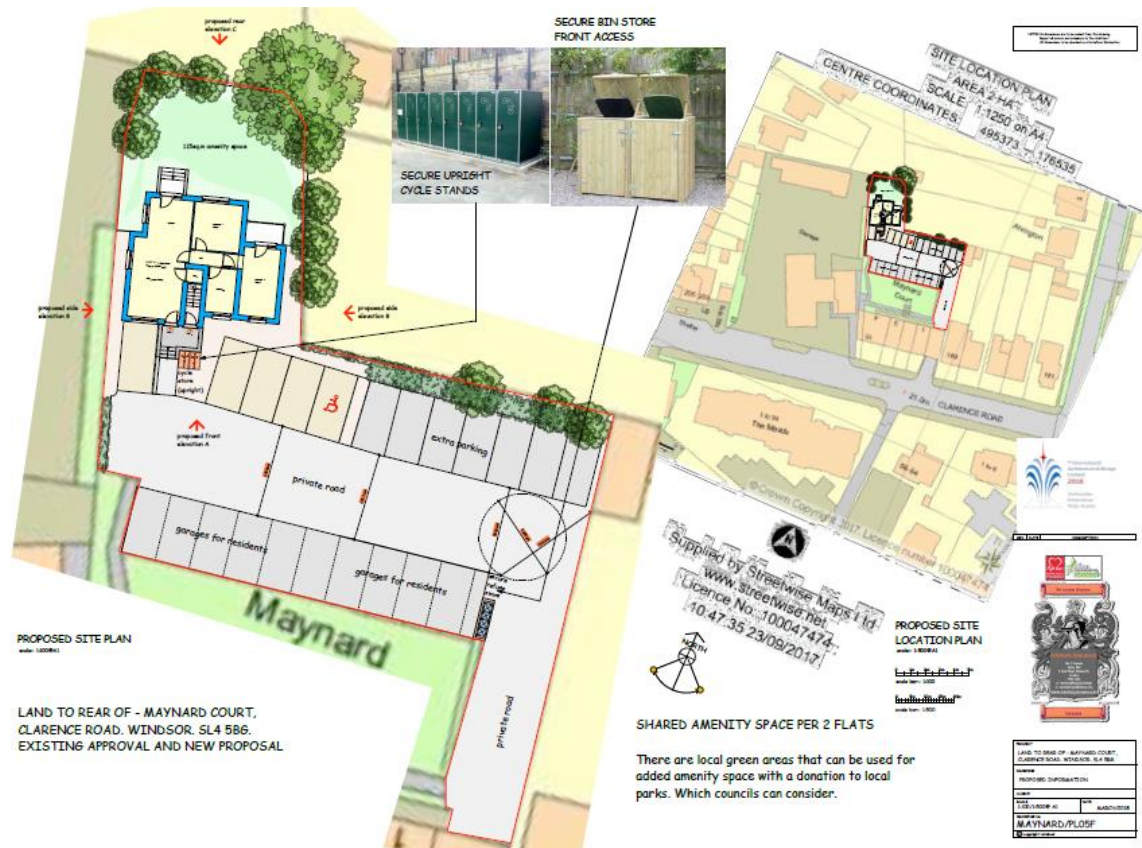
## Appendix B – Proposed Plans



## Appendix C – Previously approved plans

### 18/02085 – Most recently approved scheme at the site





15/00905 – Original approved scheme at the site (allowed on appeal)



Plans and Elevations 1:100

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## Appeal Decision Report

22 January 2019 - 19 February 2019

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### WINDSOR URBAN

**Appeal Ref.:** 18/60138/REF      **Planning Ref.:** 17/03688/FULL      **Plns Ref.:** APP/T0355/W/18/3206250

**Appellant:** Eton College **c/o Agent:** Mr John Bowles Savills 33 Margaret Street London W1G 0JD

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

**Description:** Change of use of two-storey ancillary retail storeroom to B1 (Office)

**Location:** **Rear of 125 High Street Eton Windsor SL4 6AN**

**Appeal Decision:** Allowed      **Decision Date:** 22 January 2019

**Main Issue:** A site specific flood risk assessment has been submitted which demonstrates that the site lies within a slow responding catchment area (allowing days of advanced warning in the event of a flood). It also demonstrates that the proposed egress route is predominantly dry and safe for all, that any risk to future occupiers of the building would be reduced as the offices would not be used for overnight accommodation and that the minor increase in occupants is unlikely to put neighbouring sites at risk. Furthermore the existing and proposed use are both categorised as 'less vulnerable' in national planning guidance, and a condition has been added requiring the submission of a flood warning and evacuation plan. For the reasons mentioned above It is considered that the any additional flood risk could be safely managed and that the proposal would be acceptable.

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