

ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

PLANNING COMMITTEE

WINDSOR URBAN DEVELOPMENT CONTROL PANEL

8 November 2017

Item: 1

Application No.: 16/03438/FULL

No.:

Location: Former Windsor Rackets And Fitness Club Helston Lane Windsor

Proposal: The erection of five additional close care suites at fourth floor level

Applicant: Mr Hughes

Agent: Mr John Montgomery

Parish/Ward: Windsor Unparished/Clewer North Ward

If you have a question about this report, please contact: April Waterman on 01628 682905 or at april.waterman@rbwm.gov.uk

1. SUMMARY

- 1.1 This case has been brought to Panel to deal with a technical matter of decision-making, rather than with the planning merits of a proposed development. Permission is sought to add five close-care apartments (Class C2 – Residential Institutions) to the scheme of development already permitted on the site, which comprises a 72-bed nursing home, 58 close-care suites and communal facilities, parking and landscaping, and revised site access arrangements, approved in January 2012. The additional units are proposed to be constructed at fourth floor level, atop and set in from the plan area of the northern-most part of the approved development, in a rooftop extension similar in design to that of the “sky lounge” included in the approved scheme above part of the four storey central section of the building.
- 1.2 This application is presented to Panel for a third time following its first discussion at the 29th March 2017 Windsor Urban DM Panel meeting and subsequently at the 24th May 2017 meeting of the same Panel. In March the application was deferred for a maximum of 2 cycles to allow the applicant to address outstanding fluvial flood risk issues and further information was in deed supplied by the applicant relating to flood risk, so the case returned to the Panel in May.
- 1.3 The May Panel was presented with an update report which set out in some detail the recommended purpose and content of how a legal agreement, in relation to flood risk management, could overcome a problem with the scheme that would otherwise render it unacceptable in planning policy terms. Essentially, the legal agreement would secure the preparation and adoption of a strategy for the evacuation of the close care suites and of the care home via a route passing through the main building (approved under a separate planning permission and therefore technically a different development) emerging from it at its southern end where, in the event of flooding, calculated flood water levels and the distance from public highway access to a place of safety would be minimised. The Head of Planning recommended that the

Panel should defer and delegate authority to her to a) grant planning permission, with the conditions listed in Section 10 of the Main Report, on completion of a satisfactory legal agreement to secure measures to ensure a safe means of escape in the event of flooding through the development on the site approved under separate planning permission or b) refuse planning permission if no legal agreement was completed by 5th July 2017.

- 1.4 The Panel voted unanimously to accept the recommendation, with the expectation that the legal agreement would resolve the flood risk issue. Since that time a draft legal document (in the form of a Unilateral Undertaking) has been prepared and is in process of revision and perusal by the relevant parties, but has not, at the time of the preparation of this report, yet been completed. The case is now returned to Panel with a recommendation again to defer and delegate authority to the Head of Planning to grant permission, and to extend the period within which the legal matter may be completed, rather than to carry out the second part of the May report recommendation (i.e. to refuse the planning application).
- 1.5 Additionally, it is recommended to impose a slightly different set of conditions on any planning permission, as construction of the development has now been commenced. First, the authorisation of the development needs to be differently cited, as a retrospective planning permission is now appropriate. Secondly, it is assumed that as the principle of development and the additional units are, in effect, one continuous and overlapping build project, the practices and safeguards set out in the approved Construction Management Plan (CMP) for the previous planning permission have been and will be continued into the implementation of the separate permission for the additional units. The CMP condition included in the previous report is no longer recommended, therefore. Thirdly, the applicant has been requested to give details now of the external materials that are shortly to be (or by the time of the decision being made, may already have been) used on the development, which, if appropriate, may be listed as approved in the decision notice, thereby also negating the need for a condition on this matter.
- 1.6 For all the reasons set out in the main and update reports for the March 29th and May 24th Panel meetings this year, Councillors have already resolved that, subject to the safeguards of conditions and a legal agreement or Unilateral Undertaking, planning permission can be granted for the development of five additional close care suites on the fourth floor of the building granted approval under 11/00403/FULL (as amended). From the time of the last Panel meeting that discussed this scheme there has been no change in national or local planning policy, nor any revision of the proposed development, that would indicate that the proposal is no longer acceptable (subject again to appropriate conditions and legal agreement safeguards). Consequently, it is considered that the proposed development would be acceptable.

It is recommended that the Panel defers and delegates authority to the Head of Planning until 31st January 2018 to grant planning permission, with the conditions and informatives listed in Section 4 below, on completion of a satisfactory legal agreement or Unilateral Undertaking to secure measures to ensure a safe means of escape in the event of flooding through the development on the site approved under separate planning permission.
In the event that no legal agreement or Unilateral Undertaking as required has been completed by the 31st January 2018 the matter shall be returned to the Windsor Urban DM Panel for further discussion and or determination.

2. BACKGROUND PAPERS FOR THE APPLICATION

- 2.1 For a description of the site, its planning history, the proposed development, relevant national and local planning policy, and an explanation of the recommendation, together with consultation comments and representations made by neighbours and members of the public, please refer to the main agenda reports and update reports for this planning application for the Windsor Urban Development Management Panels held on the 29th March 2017 and on the 24th May 2017, which can be found here

<http://rbwm.moderngov.co.uk/ielistmeetings.aspx?Act=earlier&CId=362&D=201801031900&MD=ielistmeetings>

3. APPENDICES TO THIS REPORT

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

4. CONDITIONS AND INFORMATIVES RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

1. The development to which this planning permission relates (having been commenced but not completed in advance of the determination of the application for it) is considered to have become authorised on the 31st August 2017 being a date on which the development was known to have been commenced. The authorised form of this development is that described in the approved documents listed at the end of this decision notice and as may be approved by discharge of the conditions attached hereto.

Reason: To clarify the terms of the planning permission in relation to Section 73A of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The units of residential accommodation hereby approved shall be used only for purposes within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Orders revoking and re-enacting those Orders with or without modification) or any equivalent classification of use which is defined by the level of care associated with the occupation of the accommodation. No part of the development shall be first occupied until details of the scope and duration of care facilities and services to be provided to occupiers of the close care suites have been submitted to and approved in writing by the Local Planning Authority. The approved facilities and services shall be kept available for use by residents of the development at all times.

Reason: To ensure that the residential accommodation provided is appropriately used and retained to meet the identified housing needs of the area. Relevant Policies - Local Plan H3, H8 and H9 and guidance contained within the NPPF 2012.

3. The Leylandii hedge along the western boundary of the site shall be retained and maintained and, if in part or whole it is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, it or that part of it shall be replaced within the first planting season following such event, in accordance with a scheme of replacement tree planting that shall have first been submitted to and approved in writing by the Local Planning Authority, 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 and protects the amenities of the neighbouring residents. Relevant Policies - Local Plan DG1, N6 and guidance contained within the NPPF 2012.

4. No part of the development shall be first occupied until measures to ensure appropriate levels of sound insulation have been installed or incorporated into the construction of the development in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The measures shall be so maintained for the duration of the occupation of the development.

Reason: To secure an appropriate standard of amenity for the occupiers of the accommodation. Relevant Policies - Local Plan DG1, H10 and guidance contained within the NPPF 2012.

5. No part of the development shall be first occupied until measures to ensure that occupiers are adequately protected from air pollution have been installed or incorporated into the construction of the development in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The measures shall be so maintained for the duration of the occupation of the development.

Reason: To secure an appropriate standard of amenity for the occupiers of the accommodation. Relevant Policies - Local Plan DG1, H10 and guidance contained within the NPPF 2012.

6. No part of the development shall be first occupied until the vehicular access to the site has been constructed in accordance with details that 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 and shall be so retained for the duration of the occupation of the units.

Reason: To secure a safe and convenient means of vehicular access to the site in the interests of road safety. Relevant Policies - Local Plan T5 and guidance contained within the NPPF 2012.

7. No part of the development shall be occupied until vehicle parking and turning space for one vehicle has been provided, surfaced and marked out in accordance with a layout that has first been submitted to and approved in writing by the Local Planning Authority. The space approved shall at all times be kept available for parking and turning in association with the development.

Reason: To ensure that the development is provided with adequate parking and turning facilities in the interest of the safety and convenience of all users of the highway network. Relevant Policies - Local Plan P4, DG1 and guidance contained within the NPPF 2012.

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. No part of the development hereby approved shall be first occupied until details of the hard and soft landscaping of the site shall have been submitted to and approved in writing by the Local Planning Authority. The details shall show the escape route for all users of the building in the event of flooding. The details required shall comprise the design, appearance, construction details, materials, levels and finish for all free-standing or retaining structures and means of enclosure, and all roads, paths, external parking spaces and other hard surfaced areas, and the location, species, size and planting density of all trees, hedges, shrubs herbaceous plants and areas to be grassed, together with programmes of implementation and after care (of a minimum of 5 years). The landscaping scheme shall be completed in accordance with the implementation programme, and any trees or other plants which die, are damaged or destroyed or become no longer viable within 5 years of the completion of the implementation programme shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity, the provision of safe escape from the building in the event of flooding, and the protection of the water environment, in accordance with national and local planning policy as set out in policies DG1, H10, F1 and N6 of the Royal Borough of Windsor and Maidenhead Local Plan and guidance contained within the National Planning Policy Framework 2012.

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.

Informatives

- 1 This permission is governed by and shall be read together with the Agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) dated xx xx 2017.
- 2 The applicant is reminded of the need to enter into a legal agreement with the Council under Section 278 of the Highways Act 1980 to cover the construction of the new and the stopping-up of the existing vehicular access.