

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

**WINDSOR URBAN DEVELOPMENT CONTROL PANEL**

20 June 2018

**Item: 1**

<b>Application No.:</b>	18/00095/FULL
<b>Location:</b>	Windsor Business Quarter 67 Alma Road Windsor
<b>Proposal:</b>	Demolition of the existing basement and concrete plinth above and erection of a building of between 1 and 7 storeys containing 217 residential apartments (Use Class C3), including a cafe (Use Class A3) measuring 146 sqm (GIA), car and cycle parking, plant enclosures, access improvements, service bay, drop off spaces, substation, and associated landscaping and open space; and a five storey building to provide 16,389sqm (GIA) of office floorspace (Use Class B1), together with ground level and basement car and cycle parking, service bay and associated landscaping
<b>Applicant:</b>	Mr Stewart
<b>Agent:</b>	Mr Gary Stevens
<b>Parish/Ward:</b>	Windsor Unparished/Castle Without Ward

**If you have a question about this report, please contact:** Sian Saadeh on 01682 796164 or at [sian.saadeh@rbwm.gov.uk](mailto:sian.saadeh@rbwm.gov.uk)

**1. SUMMARY**

The application is subject to a non-determination appeal and as such the final decision on this case will now be taken by the Planning Inspectorate. This report seeks confirmation from the Panel of the reasons for refusal which the Council will seek to defend at appeal.

The application site is known as the former Imperial House, a vacant site of some 1.86 hectares in size. The proposed development is for the erection of a five storey office building located to the south of the site with ground level and basement car and cycle parking, and a residential building of 1 - 7 storeys in height providing 217 units, with ancillary A3 (café and restaurant) use and associated car and cycle parking. Access and landscaping is also proposed. The residential element of this scheme is based on a Built to Rent scheme, where all units in the buildings would be rented. To facilitate the development the existing basement and concrete plinth at the site would have to be demolished. Section four of the below report provides a full description of the proposed development.

On 31 January 2018 and following the endorsement of Full Council, the Council submitted the Borough Local Plan Submission Version ("BLPSV") to the Secretary of State for independent examination under section 20 of the 2004 Act, together with the various prescribed submission documents in accordance with Regulation 22 of the 2012 Regulations. Once adopted, the Borough Local Plan will supersede the saved policies of the 1999 Local Plan and several policies in the Maidenhead Town Centre Area Action Plan (BLPSV, para. 1.4.3).

The BLPSV comprises up-to-date strategic and development management policies for the Borough, which together with site allocations secure the delivery of development to meet objectively assessed needs of the Borough over the plan period. Specifically the BLPSV sets out the strategy for meeting the Borough's objectively assessed needs for housing, employment and infrastructure from 2013 up to 2033. The BLPSV is based on up-to-date evidence and the results of the previous consultations undertaken on the preparation of the BLP. Once adopted, the BLP will form part of the statutory development plan for the Borough.

The designation of the former Imperial House site along Alma Road as a 'Business Area' forms an integral part of BLPSV Policy ED2, which combined with Policy ED3 establishes the approach

to deliver the scale employment floorspace to meet the needs of the Borough as set out in Policy ED1 in the right location.

To permit this planning permission would result in the loss of half of this particular 'Business Area'. This would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the BLPSV and would undermine policies ED1, ED2 and ED3 and the wider economic strategy set out in the BLPSV. This Plan is at an advanced stage but is not yet formally part of the development plan for the area. Policies ED1, ED2 and ED3 are part of the wider economic strategy which relies on maintaining sufficient contingency in the current supply of employment land to meet need through the intensification of employment floorspace on existing employment sites and new land allocations. The principle of allowing a mixed-use development on this site and, effectively, thereby permitting the loss of over half of the site to residential use, would result in a substantial loss of the land needed to meet the future employment need for the Borough and, more specifically, Windsor.

In addition, to allow alternative development on the application site would set a precedent for the consideration of similar current applications, making it difficult for the Council to resist proposals involving a change of use, or redevelopment, for residential development. The potential cumulative impact of any such planning decision would significantly undermine the policies and strategy set out in the BLPSV, which has been endorsed by Full Council.

Notwithstanding the above, the proposed development has also failed to justify the loss of employment land, detrimental to the future employment needs and economy of the area. The proposed development is therefore contrary to the National Planning Policy Framework (2012) and its associated guidance, along with policies ED1, ED2 and ED3 of the Borough Local Plan Submissions Version (2018)

It is for these reasons that it is recommended that, had the Council been in a position to determine the application, it would have been refused.

Whilst Officers have a number of concerns regarding the scale and massing of the proposed development, having due regard for the previous planning permission granted on this site it is not considered, on balance, that the potential impact on the wider character and appearance of the area would be so harmful as to warrant a recommendation for refusal on these grounds. In terms of the impact on adjacent Heritage Assets the proposed development would have an overall neutral impact on the adjacent Heritage Assets and as such the proposed development is considered to preserve the setting of the Conservation Area.

In terms of affordable housing provision, the Council's current policies require 30% provision, which would be in the region of 65 units on site. The applicants claim that the development is unviable and have provided viability evidence to support their case. The District Valuers Service (DVS) has reviewed this additional information and has concluded that based on the evidence put forward that the proposed development is unviable. However the applicants have still offered an affordable housing contribution of £915,000, which they claim would be the equivalent of up to 5 affordable housing (which is around 2.3% affordable housing provision).

Local residents have raised concerns about the proposed parking provision. Having due regard for the previous parking ratios agreed for office development at this site, along with the Council's Parking Strategy and wider sustainable location of this site, the proposed parking provision is considered acceptable. Overall and for reasons set out in the report the proposed development is not considered to raise any significant issues in term of highway safety and/or capacity grounds.

In terms of infrastructure needed to support the development, at the time of writing the key mechanism to fund infrastructure is through the Community Infrastructure Levy. The development is estimated to provide in excess of £6.5 million (taking into account any indexation and

affordable housing exceptions) which would go towards the funding of the strategic infrastructure needed to support the delivery of the BLPSV.

The proposed development is not considered to have significant harm on the amenities of the occupiers of the nearby residential properties and is considered to provide a suitable residential environment in for future occupiers.

The proposed development has been considered in the context of the relevant environmental issues and as discussed below and it has been concluded that the proposal would be not result in significant harm, subject to conditions.

<b>It is recommended the Panel confirms that it would have refused planning permission for the following summarised reasons (the full reasons are identified in Section 12 of this report):</b>	
1.	<p>To permit this planning permission would result in the loss of half of this 'Business Area'. This would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the Borough Local Plan Submissions Version (2018) and would undermine policies ED1, ED2 and ED3 and the wider economic strategy set out in the Borough Local Plan Submission Version (2018), which has been endorsed by Full Council. The application is considered to be premature.</p> <p>In addition, the owners and/or developers of a number of other sites designated or allocated in the Borough Local Plan Submissions Version for employment development are also promoting those sites for residential development. To allow alternative development on the application site would set a precedent for the consideration of those applications, making it difficult for the Council to resist proposals involving a change of use, or redevelopment, for residential development. The potential cumulative impact of any such planning decision would significantly undermine the plan-making process and the policies and strategy set out in the Borough Local Plan Submissions Version (2018).</p>
2.	<p>The proposed development has also failed to justify the loss of employment land, and so would be detrimental to the future employment needs, locally available employment opportunities and the economy of the area. The proposed development is therefore contrary to the National Planning Policy Framework (2012) and its associated guidance, policy E6 of the adopted Local Plan (2003), along with emerging policies ED1, ED2 and ED3 of the Borough Local Plan Submission Version (2018).</p>

## 2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application. The application was called in by Cllr Rankin irrespective of the recommendation of the Head of Planning and in light of the public interest in the planning application. This call in means that the application is reported to the Windsor Urban Panel for decision.

## 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is known as the former Imperial House, of some 1.86 hectares in size. The site is currently vacant and the building which once stood on the site has been demolished, the disused basement level parking with a concrete plinth above remains. This results in some level changes across the site. The site is overgrown with a number of significant trees on the site, mostly located at the site boundaries.
- 3.2 The site is accessed via (but set back from) Alma Road. Footpaths run along the northern, eastern, and southern boundaries of the site. A cycle route and footway runs along the western edge which links Vansittart Road (to the north of the site) with Green Lane and Alma Road (to the south and east respectively).

- 3.3 The site is adjacent to non listed buildings and Trinity Place and Clarence Crescent Conservation Area. Trinity Church, a listed building is nearby and is a prominent building in the local area and from within the application site.
- 3.4 The site is currently not designated for any employment use in an adopted Development Plan document. However, to meet future employment need the Borough Local Plan Submission Version does seek to designate this site as a 'business area.'
- 3.5 The majority of the site falls within Flood Zone 2. The eastern edge of the site, including the access, falls within Flood Zone 1.
- 3.6 To the north of the Site is Clarence Medical Centre, and a retirement complex known as Viscount Court. There are also a number of single storey and two storey residential dwellings located to the north western corner of the site along Vansittart Road and Clarence Road. To the east of the site are the various buildings facing Alma Road, notably Camperdown House, Connaught Court and Windsor Police Station. These buildings range from 3- 6 storeys in height.
- 3.7 To the west of the site is Vansittart Road Recreation Ground of which includes a Skate Park and child's playground.

#### **4. DESCRIPTION OF THE PROPOSAL**

- 4.1 The proposed development is for the erection of a five storey office building located to the south of the site with ground level and basement car and cycle parking, and a residential building of 1 - 7 storeys in height providing 217 units, with ancillary A3 (café and restaurant) use and associated car and cycle parking. Access and landscaping is also proposed. To facilitate the development the existing basement and concrete plinth at the site would have to be demolished.
- 4.2 In total, the Proposed Development includes the provision of 361 car parking spaces, including 18 blue badge bays, and 36 electric vehicle charging bays.
- 4.3 A new pedestrian and cycle route which runs between the two buildings is proposed which will connect Alma Road to Vansittart Park

##### Office Building

- 4.4 The proposed office building would be located to the southern end of the site and provide a total of 6,389sqm (GIA) of floorspace over five floors. 219 car parking spaces (178 in the basement level and 41 at ground floor level) are proposed as part of this development, along with the associated basement ramped access and landscaping. The applicants submitted a 'Facade Material Update' dated 06 March 2018 which states that the proposed material finish would be a linear ceramic tile in a matte finish and window frames metal detailing would be in an anodised aluminium finish.
- 4.5 In addition to parking, the basement level would provide space for plant equipment, refuse and recycling stores, along with a 'cycle centre' which will provide space for 6x cubicle female shower room and a 6x cubicle male shower room, along with a washing and drying space. Secure cycle storage for 96 cycle spaces is also proposed
- 4.6 The proposed ground floor is shown to be open plan (to allow for ease of subdivision), with foyer entrance and core. All other floors are shown to be of a similar open floor layout. Small balconies are proposed on the north and south side of each floor along with a rear terrace area. A brown roof is proposed to the building with photo voltaic solar panels

- 4.7 The proposed floorspace is set out below. The first floor is marginally smaller than other floors on account of the double height ground floor office entrance.

**Table 1: Floorspace of proposed office building**

Site Area	GEA (sqm)	GIA (sqm)	NIA (sqm)
Basement	5,227	5,135	0
Ground	2,385	2,324	2,041
1	2,317	2,141	1,865
2	2,324	2,263	1,987
3	2,325	2,263	1,987
4	2,325	2,263	1,987
Total	16,904	16,389	9,868

- 4.8 A number of queries from local residents have queried the size of the proposed building and the various measurements referred throughout the documents. All floorspace measurements are provided above. There are different industry recognised standards for calculating floorspace are set out above and described below. Where appropriate Officers have referenced measurements and justified which rating was used and why this was the appropriate definition.

Gross external area (GEA) - This relates to the whole area of a building taking each floor into account and all external walls

Gross internal area (GIA)- The whole enclosed area of a building within the external walls

Net Internal Area (NIA)- This is the usable area within a building but will exclude toilets, corridors, lobbies, plant rooms, stairwells, lift wells, those parts of entrance halls, atria, landings and balconies.

The above is an Officer summary taken from the 'Governments Code of Measuring Practice'. Further guidance on this matter can be found online: <https://www.gov.uk/government/publications/measuring-practice-for-voa-property-valuations/code-of-measuring-practice-definitions-for-rating-purposes>

Residential building

- 4.9 The residential building would be located to the north of the site and is a large single structure of 6 linked blocks with two central podium gardens above proposed ground floor car parking. The main blocks along the northern boundary are 5- 6 storeys in height with 4 storey elements linking them together, the southern side blocks are 6-7 in height with linking elements 1-4 storeys in height. As a whole the development would provide 217 new homes, to be delivered as Build-to-Rent ("BTR") units, including communal facilities for residents such as a ground floor lounges and a 24-hour concierge. The building would provide the following number of units:

**Table 2: Number of units in proposed residential building**

No. Bedrooms	No. Units
1 Bed	92
2 Bed	116
3 Bed	9
<b>TOTAL</b>	<b>217</b>

- 4.10 142 car parking spaces are proposed for this part of the proposed development, 131 spaces would be contained within the internal basement car park, and 11 around the perimeter. 7 blue badge bays are provided, and 2 spaces are allocated for visitor use.
- 4.11 228 cycle parking spaces are provided for the use of residents, and are located within three cycle storage areas at ground floor level, contained within the building. A large refuse and

recycling store area is also shown at ground level, contained in the north eastern corner of the building.

- 4.12 The proposed material finish for the main blocks would be in a 'creamy' yellow brick, with recessed arch entrances to the buildings and bronze anodised aluminium for windows and door frames. The 'link' buildings would utilise a similar colour brick with similar bronze anodised aluminium cladding and similar material use for window and door frames.

## 5. RELEVANT PLANNING HISTORY

- 5.1 The most recent and relevant planning permission for the site was 10/00820/FULL. This was for:

*"The demolition of existing building and erection of five buildings of between 1 and 5 storeys in height and a 3-storey car park to provide 25,464 sqm of office floorspace, a cafe/restaurant, ancillary security and substation as well as associated car parking, delivery drop off, service bay, cycle and motorcycle parking, public accessible open space, improved access and landscaping."*

- 5.2 As part of the previous planning permission, the two buildings proposed on the southern part of the site were 15.9m and 19.4m in height, the two on the northern part were 12.1m and 15.9m and joined by a linked walkway.

- 5.3 This application was refused by the Local Planning Authority (LPA) on the 12.07.2010 for the following reason(s):

1. *The proposed development would result in an overdevelopment of the site because of:*

*(i) the scale and visual impact of the buildings, including in views from Vansittart Road and the existing footpath to the north of the proposal taking into account the setting of the adjoining Conservation Area; and*

*(ii) the adverse impact on the neighbouring resident's amenities at no. 166 Vansittart Road.*

*As such the proposal is contrary to saved Policy E10 1) of the Royal Borough of Windsor & Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).*

2. *In the absence of a completed planning obligation the proposal fails to secure provision for a Travel Plan, for a scheme for car parking spaces to be available for use by the general public, and off-site infrastructure improvements that are directly related to the proposal in accordance with the Council's adopted Supplementary Planning Document on Infrastructure and Amenity Requirements Revised September 2009. As such the proposal fails to comply with saved Policies IMP1 and T6 of the Local Plan.*

- 5.4 The application was allowed on appeal on 09.02.2011 (PINS Ref. APP/T0355/A/10/213496).

- 5.5 In allowing the Appeal the Inspector considered that this scheme would not have a detrimental impact on the Conservation Area and concluded that:

*"...I do not consider that these unashamedly contemporary buildings would loom over the footpath or dominate views from the north and conclude that the proposal would not have a harmful visual impact on the northern boundary of the appeal site...Even though the proposal would result in a significant increase in office floorspace on the site, I conclude that this would be achieved without causing any material harm to the character and*

*appearance of the area or adversely affecting the setting of the adjoining Conservation Area.*

*Consequently, there would be no conflict with Policy E10 (design and development guidelines for business and industrial development) of the Royal Borough of Windsor and Maidenhead Local Plan incorporating Alterations adopted June 2003 (LP). Nor would there be any conflict with the advice and guidance set out in the Government's By Design publication and Planning Policy Statements relating to Delivering Sustainable Development (PPS1), Planning for Sustainable Economic Growth (PPS4) and Planning for the Historic Environment (PPS5)."*

- 5.6 With regard to the potential impact on the living conditions at 166 Vansittart Road, the Inspector concluded the following:

*"... no.166's wooden garden fence is about two metres high and the existing line of mature trees along the appeal site boundary would be remain largely intact, thus retaining most of the existing screening visible from the garden. Additional planting proposed by the appellant would further help break up the lines of the proposed development. As a consequence, I do not consider that the proposed development, despite being closer than the existing building, would result in a harmful loss of outlook from the rear garden of no.166.*

*With respect to privacy issues, the proposal would result in some downwards overlooking towards the rear garden of no.166 from higher level windows in the northern elevations of the proposed buildings. However, the impact of this would be reduced by the proposed separation distance, the retained and reinforced tree screen and proposed 'window manifestations.' The latter have been described as a means for obscuring the glazing in particular windows, but fitting these with obscured glass instead would be a more satisfactory, tried and tested and long term solution for addressing concerns about overlooking.*

*Individually and collectively, the measures proposed would not remove the perception of overlooking likely to be experienced from within the rear garden of no.166. However, they would limit actual overlooking from the proposed buildings which would generally only be occupied during normal office hours.*

*Therefore, I am satisfied that, subject to appropriate conditions, any conflict with LP Policy E10 1) would be limited and that overlooking of the rear garden at no.166 would not result in such a degree of harm to living conditions at this property as to warrant withholding planning permission for the proposed development for this reason alone."*

- 5.7 This permission is referred to as being 'extant' following the commencement of the planning permission by the approval of all the pre-commencement conditions and the demolition of the existing buildings on site.

### Positive and Proactive Engagement

- 5.8 In assessing this application, Officers have worked with the Applicant in a positive and proactive manner consistent with the requirements of paragraph 186-187 of the NPPF by making available pre-application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development. This involved a Planning Performance Agreement between the Applicants and Officers of the Council. A PPA is a tool to focus pre-application discussions on the issues that will need to be addressed throughout the course of preparing and determining a planning application, and the timescales and resources

that are likely to be required. The PPA included five pre-applications meetings about the proposal, along with a local design panel review. Two further meetings took place during the course of the planning application.

- 5.9 During the course of the application the Applicants were informed that this application would likely be recommended for refusal, however open dialogue continued to resolve other outstanding matters including clarification of Sustainable Urban Drainages, matters regrading Trees and Affordable Housing viability evidence. An extension of time to the application to deal with these matters was agreed until the 8 May 2018.
- 5.10 The planning application was due to be determined by the Windsor Urban Panel on the 20 June 2018, however on the 29 May 2018 the applicants submitted an appeal against the non-determination of the application to the Planning Inspectorate. This report is therefore seeking confirmation from the Panel of the reasons the application would have been refused. These reasons will form the basis of the Council's case at appeal.

## 6. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 6.1 Since the extant planning permission was allowed on appeal the National Planning Policy Framework (NPPF) (2012) has been published. This acts as guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications. At the heart of the NPPF (2012) is a presumption in favour of sustainable development. The document, as a whole, forms a key material consideration in the determination of any planning permission.

- 6.2 Paragraph 196 states that, *"in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development"* (paragraph 197). Paragraph 14 of the NPPF (2012) sets out what the 'presumption in favour of sustainable development' means both in terms of plan-making and decision-taking:

*"For decision-taking, this means:*

- *approving development proposals that accord with the Development Plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework [e.g., those policies relating to sites designated as Sites of Special Scientific Interest; land designated as Green Belt, or Local Green Space; or designated heritage assets] indicate that development should be restricted."*

- 6.3 Paragraph 22 is also of some relevance as it states that *"planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."*

- 6.4 The Government is currently proposing changes to the NPPF (2012) and at the time of writing, the proposals to revise the NPPF are currently out to consultation. At this stage only very limited weight can be given to the draft revised NPPF. The content of Paragraph 22 of the NPPF (2012) does not form part of the current revised document.



## RBWM Adopted Local Plan

6.5 The Borough's current adopted Local Plan comprises the saved policies from the Local Plan (Incorporating Alterations Adopted June 2003). The policies which are considered relevant to this site and planning application are as follows:

- N6 Trees and development
- DG1 Design guidelines
- NAP4 Pollution of groundwater and surface water
- R1 Protection of Urban Open Spaces
- R3 Public Open Space Provision in New Developments (provision in accordance with the minimum standard)
- R4 Public Open Space Provision in New Developments (on site allocation)
- R5 Children's playspace
- E1 Location of Development
- E 6 Other Sites in Business and Industrial Uses
- E10 Design and Development Guidelines
- S1 Location of shopping development
- H3 Affordable housing within urban areas
- H6 Town centre housing
- H8 Meeting a range of housing needs
- H9 Meeting a range of housing needs
- H10 Housing layout and design
- H11 Housing density
- T5 New Developments and Highway Design
- T7 Cycling
- T8 Pedestrian environment
- P4 Parking within Development
- WTC3 Housing in redevelopments
- WTC4 Townscape and redevelopment
- IMP1 Associated infrastructure, facilities, amenities

## Borough Local Plan: Submission Version

6.6 On 31 January 2018, the Council submitted the Borough Local Plan Submission Version ("BLPSV") to the Secretary of State for independent examination under section 20 of the 2004 Act, together with the various prescribed submission documents in accordance with Regulation 22 of the 2012 Regulations. Once adopted, the BLP will supersede the saved policies of the 1999 Local Plan and several policies in the Maidenhead Town Centre Area Action Plan (BLPSV, para. 1.4.3). Appendix A to the BLPSV sets out the existing development plan policies that will be replaced by the BLPSV Policies when adopted, subject to the recommendations of the Local Plan Inspector.

6.7 The BLPSV comprises up-to-date strategic and development management policies for the Borough, which together with site allocations secure the delivery of development to meet objectively assessed needs of the Borough over the plan period. Specifically the BLPSV sets out the strategy for meeting the Borough's objectively assessed needs for housing, employment and infrastructure from 2013 up to 2033. The BLPSV is based on up-to-date evidence and the results of the previous consultations undertaken on the preparation of the BLP. Once adopted, the BLP will form part of the statutory development plan for the Borough.

6.8 Until it is adopted by the Council under section 23 of the Planning and Compulsory Purchase Act 2004, the BLPSV does not form part of the statutory development plan for the Borough. As such, in accordance with paragraph 216 of the Framework and Section 38(6) of the Planning

Act, when taking planning decisions, the Council may give weight to relevant policies in the BLPSV:

*"... according to:*

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

- 6.9 When dealing with planning applications this means the Council must continue to determine applications in accordance with the adopted Local Plan, unless material consideration indicate otherwise. By publishing and submitting the BLPSV for independent examination, the Council has formally confirmed its intention to adopt the BLPSV, subject to the recommendations of the Local Plan Inspector.
- 6.10 The policies and site allocations within the BLPSV have been prepared having due regard to, and are consistent with, national planning policy requirements and are supported by a comprehensive and up-to-date evidence base and Sustainability Appraisal. As the Council considers the BLPSV to be sound and legally compliant therefore the LPA consider that the BLPSV policies and allocations, subject to the extent that there are unresolved objections to individual policies, should be given **significant weight** in the determination of applications.
- 6.11 Policies in the BLPSV which are relevant to the consideration of this planning application are:
- SP1 Spatial Strategy
  - SP2 Sustainability and placemaking
  - SP3 Character and design of new development
  - HO1 Housing Development Sites
  - HO2 Housing Mix and Type
  - HO3 Affordable Housing
  - HO5 Housing Density
  - ED1 Economic Development
  - ED2 Employment Sites
  - ED3 Other Sites and Loss of Employment Floorspace
  - TR6 Strengthening the Role of Centres
  - HE1 Historic Environment
  - HE3 Local Heritage Assets
  - NR1 Managing Flood Risk and Waterways
  - NR2 Trees, Woodlands and Hedgerows
  - NR3 Nature Conservation
  - EP1 Environmental Protection
  - EP2 Air Pollution
  - EP3 Artificial Light Pollution
  - EP4 Noise
  - EP5 Contaminated Land and Water
  - IF1 Infrastructure and Developer Contributions
  - IF2 Sustainable Transport
  - IF3 Green and Blue Infrastructure
  - IF8 Utilities
- 6.12 The weight the LPA considers should be attributed to each policy, having due regard for the level of unresolved objections is, where relevant, discussed further below.
- 6.13 The Borough Local Plan Submission Version 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)

## Supplementary planning documents

6.14 Supplementary planning documents adopted by the Council relevant to the proposal are:

- Sustainable Design and Construction SPD
- Interpretation of Policy R2 to R6 - Public Open Space provision
- Interpretation of Policy F1 – Area Liable to Flood

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)

## Other Local Strategies or Publications

6.15 Other Strategies or publications relevant to the proposal are:

- RBWM Landscape Character Assessment - view at: [https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning/11](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning/11)
- RBWM Townscape Assessment - view 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)
- RBWM Parking Strategy - view at: [https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning/13](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning/13)
- RBWM Strategic Flood Risk Assessment - view at: [https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning/6](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning/6)
- Conservation Area appraisal - view at: [https://www3.rbwm.gov.uk/info/200207/conservation/666/conservation\\_areas](https://www3.rbwm.gov.uk/info/200207/conservation/666/conservation_areas)
- RBWM Shopfronts and Advertisements - view 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)
- RBWM Public Rights of Way Improvement Plan - view at: [https://www3.rbwm.gov.uk/info/200215/rights\\_of\\_way/902/policies\\_plans\\_and\\_progress\\_reports](https://www3.rbwm.gov.uk/info/200215/rights_of_way/902/policies_plans_and_progress_reports)

## **7. EXPLANATION OF RECOMMENDATION**

7.1.1 The key issues for consideration are:

- i Principle of the redevelopment of this site
  - Planning History*
  - Loss of Employment Land (including prematurity)*
  - Principle of the development in flood zone 2*
  - Housing Density and Mix*
- ii Design considerations including the impact on heritage assets
  - Potential Impact on Heritage*
  - Impact on the Character and Appearance of the Area, including landscape*
- iii Affordable Housing Considerations
- iv Impact on Neighbouring Amenity
- v Provision of a Suitable Residential Environment
- vi Highway considerations and Parking Provision
  - Highway safety and capacity considerations*
  - Parking Provision*
  - Services, access, and refuse*
- vii Infrastructure Provision
- viii Impact on Trees

- ix Environmental Considerations
  - Ecology and biodiversity enhancements*
  - Impact on Noise or Air Quality*
  - Contaminated Land*
  - Flood Protection and Sustainable Urban Drainage*
  - Sustainability and Energy*
  - Archaeological matters*
- x Other considerations

## **i Principle of the development**

### Planning history

- 7.2.1 The relevant planning history for this site is set out in section 5 of this report. As identified the extant planning permission for this site (10/00820/FULL) is for the office redevelopment of the site.
- 7.2.2 Whilst the NPPF (2012) has been published since the previous appeal decision the adopted Local Plan remains. The NPPF does not introduce a material change in planning policy which is relevant to the scale and form of the proposed development. On this basis the previous planning permission is a material consideration as a fallback position, in so far as it sets out a mass and scale of development which was considered to be acceptable on this site. Where relevant this has been acknowledged and given the appropriate weight in the consideration process. In the opinion of Officer's the extant permission is clearly capable of continuing to be implemented it is debatable as to whether it would ever be completed given the appellants case in making this application.

### Loss of employment land and plan-making process

- 7.2.3 The application site is not afforded any allocation or designation within the current adopted Local Plan although Policy E6 is relevant. The BLPSV seeks to specifically designate this site as a business area to meet the future economic growth of the Borough, this is set out in policy ED2 of the BLPSV.
- 7.2.4 As set out above in paragraph 6.6- 6.13 the weight attributed to the BLPSV depends upon:
- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
  - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
  - *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*
- 7.2.5 Since the submission of this planning application the Council has submitted the emerging BLPSV to the Planning Inspectorate for Examination. In doing this the Council considers the BLPSV to be sound and legally compliant. Whilst having due regard for the site owners' representations against this proposed allocation as part of the plan-making process, the LPA has concluded that policies ED1, ED2 and ED3 of the BLPSV should be afforded significant weight in the consideration of this application.
- 7.2.6 The applicants have provided their view on this matter in a joint legal opinion prepared by Christopher Katkowski QC and Anjoli Foster of Landmark Chambers. Whilst they agree that the BLPSV is at a relatively advanced stage, they consider that there are significant unresolved objections to the relevant emerging policies, including the applicants own objections through the plan making process. The applicants consider that these, along with other objections, reduce the weight to be given to these policies. On this basis the applicants contend that only "limited weight" should be given to these policies.

7.2.7 It is not uncommon for landowners or developers promoting large sites to apply for planning permission for their preferred form of development (which does not accord with the policies of an emerging local plan) whilst also objecting to an emerging local plan. For that reason, the Applicant's unresolved objection to BLPSV Policy ED2 is not, in itself, considered a reason to conclude that policy should be afforded limited weight and should not, of itself, be a factor that weighs in favour of granting planning permission. Officers have reviewed the objections to policies ED1, ED2 and ED3 and do not consider that there are extensive unresolved objections which would warrant attributing less weight to these policies in the BLPSV in the manner in which the applicants contend. Accordingly, the Officer position remains that significant weight should be given to these policies.

7.2.8 In addition, the PPG on 'Determining a planning application' stipulates that an application that is premature is unlikely to justify a refusal of planning permission in the context of the presumption in favour of sustainable development. Such circumstances are likely, but not exclusively, to be limited to situations where both:

*"the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan... and*

*(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

*...Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process."*

7.2.9 The site is considered to be in business use based on the last use of the site. Policy E6 of the Adopted Local Plan states that for such sites redevelopment or change of use will be supported in appropriate circumstances. Paragraph 4.2.21 of the adopted Local Plan sets out that the circumstances where redevelopment will be considered acceptable include the proposal having no unacceptable adverse impact on locally available employment opportunities. The evidence prepared in support of the Borough Local Plan submission version and as set out in this report, the proposed redevelopment of the site for a scheme which would result in the loss of half the site from business or employment use, would unacceptably reduce locally available employment opportunities within Windsor. The proposal is therefore contrary to Policy E6 of the adopted Local Plan.

7.2.10 The site is designated as a 'Business Area' within BLPSV Policy ED2 (Employment Sites). This allocation forms a significant part of the wider employment land needed to meet the future economic needs of the Borough. There continues to be a strong demand for office space within the Borough, accompanied by continued demand for industrial and warehousing floor space, driven by the need for premises suited to modern business needs. In response to this need and demand, policies within the BLPSV aim to protect existing employment floor space and support the creation of further employment floor space both through relevant BLPSV policies and allocation of specific sites.

7.2.11 Policy ED1 the Borough Local Plan identifies that 130,697 sq.m of economic floor space is needed up to 2033. This proposed floor space is significantly below that recommended by the Eastern Berkshire Economic Development Needs Assessments, 2016 ("EDNA (2016)"), which was in the region of 222,080 sq.m. The EDNA has made an assumption that significant elements of the employment portfolio in the Borough would be released over the plan period and this lost floor space would need replacing on new sites. For offices, this replacement

assumption (with an added flexibility allowance) is greater than that needed to accommodate net change.

- 7.2.12 The Council's approach to justifying a smaller allocation of floor space to the assessed need identified in the EDNA (2016) is underpinned by local market analysis. The employment policies rely on maintaining sufficient contingency in the current supply of employment land to meet need through the intensification of employment floor space on existing employment sites and new land allocations. The BLPSV supply position relies on optimising office space on this site. This is discussed comprehensively in the Peter Brett Report '*Local sensitivity test of employment land needs in the Royal Borough of Windsor & Maidenhead: An independent review of technical methods*' which forms part of the evidence base for the emerging BLPSV.
- 7.2.13 The Council's Topic Paper entitled 'Shaping the Future' (2018), which is a supporting document submitted with the BLPSV, looks to demonstrate how the 81,233 sq.m of office B1 floor space identified in the BLPSV which is needed to meet the future growth over the plan period, could be delivered. Table 54 in this topic paper states that the Imperial House site could deliver 16,112 sq.m of B1 Office floor space. This Table, contained in the Topic Paper is one option of how this could be delivered in order to meet the future need and is not proposed policy. In summary, the Council's approach to providing employment floor space to meet the future need, as set out in the BLPSV, relies on having sufficient contingency in the immediate supply through the intensification of employment floor space on allocated employment sites to manage risk.
- 7.2.14 The designation of the former Imperial House site along Alma Road as a 'Business Area' forms an integral part of BLPSV Policy ED2, which combined with Policy ED3 establishes the approach to deliver the scale of employment floor space to meet the needs of the Borough in the right location, as set out in Policy ED1.
- 7.2.15 To permit this planning permission would result in the loss of half of this particular 'Business Area'. This would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the BLPSV and would undermine policies ED1, ED2 and ED3 and the wider economic strategy set out in the BLPSV, which has been endorsed by Full Council. This Plan is at an advanced stage but is not yet formally part of the development plan for the area. Policies ED1, ED2 and ED3 are part of the wider economic strategy which informs the BLPSV and rely on maintaining sufficient contingency in the current supply of employment land to meet need through the intensification of employment floor space on existing employment sites and new land allocations. The principle of allowing a mixed-use development on this site and, effectively, thereby permitting the loss of over half of the site to residential use, would result in a substantial loss of the land needed to meet the future employment need for the Borough and, more specifically, Windsor. Therefore it is considered that if planning permission were granted the development proposed would substantially undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the BLPSV.
- 7.2.16 In addition, the owners and/or developers of a number of other sites designated or allocated in the BLPSV for employment development are also promoting those sites for residential development. To allow alternative development on the application site would set a precedent for the consideration of those applications, making it difficult for the Council to resist proposals involving a change of use, or redevelopment, for residential development. The potential cumulative impact of any such planning decision would significantly undermine the plan-making process and the policies and strategy set out in the BLPSV.
- 7.2.17 BLPSV Policy ED2 designates the application site as a 'Business Area'. That designation is not restricted to land which is currently in employment use and the existence of the 2011 planning permission is not directly relevant to whether BLPSV Policy ED2 is material to the determination of this planning application. The clear intention of designating the application site as a 'Business Area' in BLPSV Policy ED2 is to protect the site from opportunistic proposals for residential development and facilitate the development of the site for employment use as part of the strategy for meeting the objectively assessed employment need over the Plan period. This does

not depend upon the existence of the 2011 Planning Permission and the potential of the application site to provide employment floor space in accordance with BLPSV Policy ED2 should not be measured by the former, or previously permitted, amount of office floor space on the site.

7.2.18 Policy ED3 states that:

*'Where a change is proposed from an economic use to another use, development proposals must provide credible and robust evidence of an appropriate period of marketing for economic use and that the proposals would not cause unacceptable harm to the local economy. A further consideration to be taken into account will be the significance to the local economy of the use to be lost.'*

7.2.19 Paragraphs 5.26 to 5.31 of the Planning Statement submitted in support of the application consider that the BLPSV Policy ED3 is only engaged where a proposal results in the loss of employment floor space or use and assert that the proposed development retains an employment use on the site. However, paragraph 8.9.5 of the reasoned justification to Policy ED3 explains that *'the requirement for marketing evidence'* in BLPSV Policy ED3 *'applies when a proposal is made that would result in the loss of an economic use or a net reduction in the quantity of employment land or premises'*. Any proposal that involves a change of use from an 'employment generating' use, to another use, which may include a mixed-use comprising economic and non-economics uses, will engage Policy ED3.

7.2.20 'Economic use' refers to the existing or last lawful use of the land in question. The existing or last lawful use of the land is or was an employment use (Class B1(a) offices). The application form confirms this and seeks permission for a change in the use of the application site to provide a mixed-use development. The proposal therefore involves a change of use to a mixed-use, that includes economic and non-economic uses and, thereby, engages the marketing requirements of BLPSV Policy ED3.

7.2.21 The marketing evidence requirement should comply with requirements of BLPSV Policy ED3 and should not be artificially constrained by a comparison with the amount of B1(a) office floor space formerly permitted on the application site.

7.2.22 A Commercial Market Assessment prepared by Jones Lang LaSalle dated January 2018 has been submitted in support of this planning application. The Commercial Market Assessment concludes that, despite an extensive marketing campaign, it has not been possible to secure a suitable pre-let tenant or pre-sale that would enable the extant office development to be constructed. Furthermore, the nature of the office market in Windsor has significantly changed since the previous scheme was proposed, meaning that large scale office development is unlikely to attract interest. Instead, well designed, flexible, smaller scale office buildings which are supported by other uses as part of mixed-use schemes are more appealing to the modern office occupier market place.

7.2.23 Whilst the planning application has been subject to extensive pre-application discussions no agreement to the marketing exercise was first sought as required by BLPSV Policy ED3. Therefore the evidence fails to meet the pre-condition set out in Policy ED3. This in itself does not warrant sufficient grounds for objection, but rather the consideration is on the robustness of the marketing evidence and if this complies with the policy requirements.

7.2.24 BLPSV Policy ED3 further states that:

*'Marketing evidence should prove that both the land and the premises have been widely advertised and marketed for a wide range of economic uses for at least one continuous year immediately prior to submission of a relevant planning application.'*

7.2.25 The Commercial Marketing Assessment shows that marketing for this site has been focused on a single occupier pre-let/ pre-sale interest. As such, it is not considered to comply with the marketing requirements of BLPSV Policy ED3.

7.2.26 In contrast the market analysis recently published by the Council (notably the 'Supplementary market analysis Employment Land Review' prepared by Aspinall Verdi dated January 2018) indicates that there is demand for other office formats within the office market in RBWM and particularly within town centre locations.

7.2.27 Following the Council's publication of the Supplementary Market Analysis Employment Land Review' prepared by Aspinall Verdi the applicant has provided a further statement in response to this evidence base document. However these comments go to the overall allocation of the site as a 'Business Area' and the soundness of this proposed allocation as opposed to compliance with the aforementioned policies. This matter goes to prematurity and the consideration of this designation through the plan- making process. For completeness and to ensure that this has been given the appropriate weight in the consideration process the applicant's response can be summarised as set out below:

- The Council's evidence base documents do not take into consideration the reduction in space needed by office workers reduces the amount of employment space required to accommodate job increases and does not take into account other sectors such as retail, healthcare or those who work from home.
- Windsor has a much smaller office market in terms of overall stock and lettings than Maidenhead and the provision of offices needs to reflect the local market.
- This planning application has been designed to allow for greater flexibility and sub-division than the extant office consent so to accommodate smaller scale lettings.
- A small scale start-up business (size range identified as 'micro' in the Aspinall Verdi report) typically occupy 100-500 sq ft and seek to keep property costs i.e. rent low. These are often successfully accommodated either in smaller refurbished office buildings or,
- Co-working environment established in a larger building. These operators target town centre locations with proximity to good public transport networks such as Maidenhead, Slough or Reading. The application site is appropriate for the co-working sector.
- Utilising the whole of the application site for smaller lettings (e.g.: 2,000-4,000 sq ft range across the consented area of 240,000 sq ft) would result in the order of 80 lettings which could take a considerable number of years to fill. This would also apply to a collection of smaller buildings.
- Developing in such a piecemeal fashion would not be economically viable.
- The proposed development accommodates the likely range of scenarios active in the Windsor market relevant to the range 'small' upwards identified in the Aspinall Verdi report. The proposed office building will take 2 years to achieve full occupancy.
- The applicants have already produced a small-unit scheme suitable for start-ups in Ascot Business Park and it has proved difficult to let/sell. This development was completed approx. 10 years ago. 20,000 sq ft is still vacant and has never been let. Windsor is a stronger office location however having taken advice on this consider that there is an office market for smaller-scale companies which is what the proposal can accommodate.
- The East Berkshire EDNA overstates the additional employment space needed to satisfy jobs created in the Borough. The office market in RBWM is generally in balance & the threat of jobs migration out of Borough comes from regional threats for example transport infrastructure upgrades such as Crossrail rather than a lack of availability.

7.2.28 BLPSV Policy ED3 also requires that consideration should be given to the significance of the loss of the use of this site to the local economy. The BLPSV has identified in policy ED1 that the objectively assessed economic need during the Plan period is for some 5,908 additional Class B1 office jobs, requiring provision in the Plan for some 81,233 sq.m net employment floor space requirement. The failure to maximise the potential employment floor space on this site, by proposing a mixed-use development with a significant element of residential would adversely impact the delivery of the floor space that is assessed as being required to support the



economic development needs of the Borough for the plan period. The proposed development is therefore contrary to emerging Policies ED1, ED2 and ED3 of the Borough Local Plan Submission Version (2018)

#### *Principle of Residential Development in Flood Zone 2*

- 7.2.29 In terms of the residential element, the site falls within Flood Zone 2 and proposes a significant proportion of the site be in residential use. The National Planning Practice Guidance (PPG) classifies residential development as 'more vulnerable' land use and office development as 'less vulnerable' land use.
- 7.2.30 In accordance with the NPPF (2012) and its associated guidance a sequential test for the development is therefore required. The aim of the Sequential Test is to steer development to areas at the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test cannot be met the principle of the development in Flood Zone 2 is not acceptable.
- 7.2.31 In terms of meeting the criteria of the Sequential Test, the LPA would normally undertake the Sequential Test as part of the Local Plan process. However, the site does not form one of the existing housing site allocations. Accordingly the applicant has to demonstrate that the development passes the sequential test. Reasonably available sites would usually include any sites that are suitable, developable *and* deliverable.
- 7.2.32 Weetwood Services have prepared a Sequential Test on behalf of the applicants. The geographical search area of the Sequential Test is the Borough and the assessment utilises the Council's most recent housing position in the Housing and Economic Land Availability Assessment (HELAA) (2016). This sets out sites which are considered developable.
- 7.2.33 The application site is considered to be deliverable. Therefore the sequential test has discounted alternative sites which have an anticipated delivery period of greater than 5 years as they are not considered to be viable alternative for the purposes of this assessment. The applicant's sequential test has also discounted site which are not capable of providing a roughly equivalent number of dwellings as they are not 'suitable'. 3 sites have been identified which are sequentially preferable these include house allocations site HA5: York Road, HA32: Heatherwood Hospital and HA34: Sunningdale Park. These three sites are in the ownership of other landowners which are currently in process of advancing their own developments on this site (through pre-application advice, approved planning applications and the planning process respectively). These sites are therefore not available.
- 7.2.34 In addition, paragraph 019 of the National Planning policy Guidance (NPPG) states that:
- 'Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.'*
- 7.2.35 The BLPSV sets out how the Council plans to deliver 14,240 new homes over the plan period up to 2033 to meet the Borough's Objectively Assessed Needs (OAN). To meet this OAN some of the proposed housing allocations are located in flood zone 3. This further demonstrates that, as this site is in flood zone 2, the development cannot be met in areas of less probability of flooding

#### Housing Mix of Development

- 7.2.36 The site is a previously developed site in an urban and sustainable location close to public transport, local amenities, shops and services.

- 7.2.37 Paragraphs 7.2.3 to 7.2.28 clearly sets out officers' objection to the loss of employment floor space. Notwithstanding these clear objections to the scheme, a flattened development in this location would make efficient use of urban land (the height and scale of the development proposed are discussed later in this report).
- 7.2.38 Policy HO2 of the BLPSV states that new homes should meet the needs of current and projected households. The proposed development of 217 is mostly split between two and one bedroom units (with only 9 three-bedroom units). The Council's current need is identified as being for predominately two and three-bedroom units. However, this need is across the Borough having due regard for various sites locations and character of the area. The emphasis on having a Plan-led system is to ensure that allocations adequately address and meet the wider Borough needs, this is identified in the BLPSV. The site is not allocated for residential development, however given this site's sustainable location, in the event a residential form of development was to be considered acceptable on (part of) this site then it is considered that it should maximise efficient use of previously developed land in a highly accessible location. This would support an approach for a flattened development.
- 7.2.39 The proposal is based on a Private Rented Scheme/ Build to Rent where all units would be rented and managed on site. Whilst these units would not be for sale to the private market, there is an identified need for various types of housing products in the Borough, which include PRS units. Indeed in the locality there are a number of units which are privately owned and are privately rented out (most units within Camperdown House being an example), directed towards a more tourism trade. These units would be directed to residents and the wider community who wish to rent and live in the local areas, in a highly sustainable location. This will contribute to meeting housing need.
- 7.2.40 5% of the homes proposed would be designed to meet Building Regulations Part M4(2) – Accessible and Adaptable Dwellings standards which complies with the accessible standards in the aforementioned policy.
- 7.2.41 The Council's position is that it can identify a five-year housing land supply in accordance with paragraph 47 of the NPPF and the application site does not form part of the BLPSV site allocations for housing. However, the proposed development would provide residential accommodation that, if permitted, would contribute to the accelerated delivery of homes to meet the Borough's objectively assessed need for housing. The mixed-use development would also bring a currently vacant site back into use. These are benefits of the proposed scheme.

## **ii Design considerations, including the impact on Heritage Assets**

### Potential Impact on Heritage

- 7.3.1 The site is adjacent to the Trinity Place/Clarence Crescent Conservation Area and bordering the site to its east side is Camperdown House, a Non-Designated Heritage Asset. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of the Conservation Areas, this includes its setting. Both National and Local Policy (including the BLPSV) reinforce and provide further guidance on that contained within the above statute.
- 7.3.2 The NPPF (2012) states that

*'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its*

*setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification....*

*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*

- 7.3.3 The Local Plan states that “in respect of Conservation Areas the Borough Local Council will require proposals for new buildings [...] to be of a high design standard which is sympathetic in terms of siting, proportion, scale, form, height, materials and detailing to adjacent buildings and the character of the area in general”.
- 7.3.4 The potential impact on the Heritage Assets are examined by the applicants in their supporting Heritage Statement. The Heritage Statement proposes that the proposed development is not of a sufficient height and scale or located in a place to provide a visual connection to other heritage assets within the Conservation Area. The summary of the Statement concludes that the impact on the Trinity Place/Clarence Crescent Conservation Area and other assets is, for the large part, essentially neutral. The proposed scheme would sustain the significance of the Conservation Area, whilst making a positive contribution to local character. The development on the land itself, and the loss of some of the existing greenery, would cause less than substantial harm to the conservation area as an extensive and varied heritage asset. This minor harm would be more than outweighed by the quality of the buildings and the sensitive landscape proposals, as well as the other public benefits of the scheme (these have been identified as including bringing the site back into use, the delivery of housing and local economic opportunities.)
- 7.3.5 The Council’s Conservation Officer has reviewed the application, along with the supporting documents including the Heritage Assessment. It is considered that the submitted verified views have assisted in understanding the impact on the Conservation Area and nearby Heritage Assets. These have demonstrated that the height of the proposed buildings, in their siting set back from the road, would be read in relation to the Conservation Area and Camperdown House, but would not cause harm. If the finer design of details and materials are successful (a matter which can be dealt with by way of conditions), the new development would positively reflect a new stage of building as this urban area of Windsor.
- 7.3.6 Having assessed the proposal it is considered that the proposed development would have an overall neutral impact on the adjacent Heritage Assets and as such the proposed development is considered to preserve the setting of the Conservation Area. Some letters of objection have raised concerns about the impact on the views of Trinity Church. The development would restrict views of this church from Vansittart Park, however these views are already limited and there would be no wider impact on this church. It is considered that (and as concluded in the Heritage Assessment) any potential minor harm would be more than outweighed by the quality of the buildings and the sensitive landscape proposals, as well as the other public benefits of the scheme.
- 7.3.7 A letter of objection has queried why Historic England was not consulted on this planning application when they were on the last planning application. The requirements for consulting HE have been amended since the previous planning application and as the application site was not in the Conservation Area it was considered that they no longer required consultation. However and in the interest of completeness Historic England were consulted on this planning application and their formal response is that they do not wish to comment on this planning application and do not wish to be consulted on any revised applications on this site. Their responses states that the Council should utilise their internal heritage specialists on this site. The above assessments has had due regard to the views of the Council’s Conservation Officer.

Impact on the Character and Appearance of the Area, including landscape

- 7.3.8 The NPPF (2012) states that planning policies and decisions should not attempt to impose architectural styles or particular tastes but should concentrate on such matters as overall scale, density and layout in relation to neighbouring buildings and the local area more generally. It is also recognised that it is proper to seek to promote or reinforce local distinctiveness.
- 7.3.9 Policies DG1 and H10 of the Borough's current Local Plan seeks to ensure that residential development will be of a high standard of design and landscaping, compatible with the area and streetscene. Policy H11 states that in established residential areas planning permission will not be granted for schemes which introduce a scale or density of new development which would be incompatible with or cause damage to the character and amenity of the area. ED10 requires that layout of activities within economic sites, along with the design and scale of the buildings and the materials used are appropriate for the area.
- 7.3.10 Policies SP1 and SP2 of the BLPSV states that new developments should positively contribute to the places in which they are located and that larger developments should provide a harmonious, integrated mix of uses, where appropriate, that foster a sense of community, vibrancy and activity, along with contributing to the provision of social, natural, transport and utility infrastructure to support communities. The policy further promotes the community integration and sustainable place making. Policy SP3 sets out a number of principles to achieve a suitable high quality design.
- 7.3.11 The site is set back from the mixed uses buildings fronting Alma Road and residential properties to the north and there is no clear 'principal elevation' to this site. The main vehicular entrance is set back behind Alma Road and the site is largely hidden on its eastern edge. The western edge to the park is more prominent.
- 7.3.12 The previous development approved on this site was for 4 office buildings, with a decked car park to the south of the site of the four buildings. Buildings 1 and 2 were proposed to be linked and located along the northern boundary. A 'green link' ran directly through the site to Vansittart Park with a café facing the park. The pathway from north of the site was opened up to allow for permeability with the application site.
- 7.3.14 This proposed development is for two large blocks. To the north; a residential block between 1 and 7 storeys containing 217 residential apartments with ancillary commercial areas and a cafe and to the south; a five storey office building with basement. There is a path linking the access of the site from Alma Road to the park, however the landscaping scheme encloses the site from the surrounding area.
- 7.3.15 The proposed landscaping scheme fails to make greater connection or integration to the wider area, notably the park to the west. An objection to this proposal from the Council's Landscape Officer and Parks and Countryside Team is that this proposed development fails to embrace opportunities to improve connectivity and integrate with the wider site. The direct link from Alma Road to Vansittart Recreational Ground is muted (in comparison to the previous application on this site) due to the proposed layout of the two buildings which prevent a clear and straight route through the site and also the landscaping scheme which encloses the site on the north and west boundaries. In addition the scheme fails to integrate as part of the public realm with the park and provide an active frontage. Some of these concerns could be improved through landscaping conditions to seek a landscape approach which seeks to improve the integration with the wider area. However the layout and lack of clear permeability through the site is one which is defined by the location of these proposed large buildings and cannot be overcome by condition.
- 7.3.16 There is limited design justification for the two large buildings on this site, these are largely predicated on the applicants preference for the proposed singular managed residential PRS block, the singular office building be proposed as a more adaptable and flexible office floor space. With only 2 buildings on a 1.8ha site with a height up to 7 storeys the general bulk and massing of the proposed buildings does exceed that of the surrounding area. It is considered that this is a development which seeks to maximise the development capacity of the site whilst

having due regard for the previous planning permission and the scale and mass of development previously found acceptable on this site, as opposed to having due regard for good urban design.

- 7.3.17 Much of the applicant's justification to inform the proposed development is based on the scale and layout of the development previously granted planning permission by appeal on this site. The residential building heights mostly vary from 4 to 7 storeys (a modest section being single storey in height) with the tallest elements within the centre of the site. The proposed footprint is broadly similar to the previous approved scheme which had a large linked office building in a similar location. The proposed massing increases that of the approved scheme to the central area of the site. However along the northern elevation facing Vansittart Road there is greater variation and articulation in the massing when compared to the previous planning permission. Officers and the Council's Urban Designer consider that this is an improvement in terms of the change in heights along the length.
- 7.3.18 The office building has little relationship to its context but it is recognised that there are a number of large buildings facing Alma Road which do little to positively relate to the character of the area (a notable one being the police station). The development also broadly echoes what has been previously approved on the site in terms of scale. Indeed given the BLPSV intention for this site to deliver and maximise employment opportunities any development of this site for employment uses will largely have a format and layout of the office development proposed.
- 7.3.19 In terms of scale and mass, the proposed development is considered to be one of significant height, scale and massing, and dominated by hard landscaping and car parking. However the previous approved application on this site granted a large campus form of office development with a decked car park to the south of the site. The 7 storey height is greater than the prevailing area, however this is largely contained to the centre of the site, away from the site boundary, which reduces any significant visual impact. The residential building along the north boundaries would be 4-5 storeys in height. As the ceiling heights are less than that of an office development the proposed development would not be significantly greater in terms, of height and scale than the previous permitted scheme. This is shown in the Design and Access Statement and Townscape Visual Impact Assessment which supports this development. The verified views contained within this document are accurate representations and show a true impact on how the proposed development would appear within the context of the wider area.
- 7.3.20 There are a number of shortcomings in this proposal, including the scheme as a whole failing to maximise opportunities to integrate and improve connectively across the site. The size, scale and massing of the buildings is fairly substantial. However this site is relatively self-contained, set back from Alma Road with limited views from the wider area. Thus any potential harm from the development would be limited from the street scene and wider key views.
- 7.3.21 As set out above the previous application is considered to be a material consideration insofar as it agrees a particular scale and mass which is considered to be acceptable in this location. It is not considered that the proposed development would result in significant harm above and beyond the previous planning permission on this site. The proposed development is greater in height than the previous planning permission permitted on the site. However, when viewed from the wider context including the park, the north of the site along Vansittart Road, and from Alma Road, overall the visual appearance and proposed material finish is considered one that is an improvement on this site (in comparison to the extant planning permission). The position of the proposed office building, visible from Goslar Way, would also likely improve the visual prominence and marketability of office development in this location.
- 7.3.22 In the event the application was being recommended for approval conditions regarding materials and improved landscaping scheme would have been sought.
- 7.3.23 A number of letters of representations have raised objections to the height, scale and overall mass of the development, including comparisons with other schemes in terms of percentages.

Such comparisons are not needed for development within the urban area. This application has been considered in terms of the impact on the character and appearance of the area and wider street scene.

- 7.3.24 Overall the proposed layout could be improved and the scale and overall mass is considered to be one which is significant, generally the view of Officers is that development does not embracing good design. However, when having due regard for the previous scale and layout of development found to be acceptable on this site (and as there has been no significant material changes in planning policies regarding design since the previous planning permission was granted), the overall harm to the character and appearance of the area is considered to be limited. On this basis the proposed development is considered to be visually acceptable and complies with policies DG1, H10 and H11 of the adopted Local Plan, emerging policies SP1, SP2 and SP3 of the BLPSV and the NPPF (2012).

### **iii Affordable Housing Provision**

- 7.4.1 Policy H3 Affordable Housing of the current Local Plan requires development of this size within urban areas to provide 30% affordable housing provision, this would equate to around 65 affordable housing units being provided on site. For a scheme of this size this requirement is effectively the same in terms of policy HO3 of the BLPSV, however given the number of unresolved objections limited weight is afforded to the policy.
- 7.4.2 Carter Jonas, on behalf of the applicants has submitted an Affordable Housing and Viability Assessment on behalf of the applicants. The viability appraisal seeks to justify that on-site affordable housing would be unviable as part of the proposed development. They state that whilst the proposed scheme is unviable the applicants wish to make a financial contribution in lieu of on-site provision. The financial contribution would be for £915,600 which they claim could provide 3 social rented and 2 shared ownership units, a total of 5 affordable housing units, which would equate to around 2.3% affordable housing provision against the Council requirement for 30% (subject to viability).
- 7.4.3 District Valuer Services (DVS) has been commissioned as an independent valuer to review the evidence submitted and have raised a number of queries on the assumptions in the Carter Jonas report. The applicants have provided additional information and points of clarification on various matters however much of the updated evidence provided has been focused on the PRS/ Built to Rent scheme. This includes the build costs and the amount of CIL delivered through this scheme.
- 7.4.4 DVS has reviewed this additional information and has concluded that based on the evidence submitted the proposed development is unviable. However the applicants are still willing to offer an affordable housing contribution of £915,000. Officers have queried the applicant's offer, given their claims that the scheme remains unviable. Carter Jonas have prepared a paper called 'Build to Rent Statement' which seeks to show that if growth in value is taken into account the scheme will increase in value over a period of years and on the basis that the applicants intend to hold the scheme, they will benefit from this up lift. On this basis they are willing to offer the contribution even though the scheme is currently not viable. Looking at the potential growth in this sector DVS considers that there is some merit in this justification.
- 7.4.5 The Council's Housing Enabling Manager has reviewed the viability evidence put forward and has raised some queries about the consulting reports of both the Applications Viability Assessment and the findings of the DVS. The proposed residential development does have a low saleable area (i.e. there is a lot of space taken up from communal and ancillary floor space). This is on account of the proposed parking area being included in the Gross Internal Area and that a number of communal rooms which could include a gym, function room and café are shown on the ground floor. Officers have reviewed this and consider that these ancillary spaces

are reasonable and proportionate for the form of development proposed. Whilst this may reduce the efficiency of the development in terms of net saleable area this is not a basis to object to the proposal.

- 7.4.6 Officers have revised the development and evidence put forward and whilst there appears to be some area of small discrepancies/ disagreement these are not considered to individually or cumulatively affect the viability of this scheme. On this basis it is considered that the evidence put forward demonstrates that the level of affordable housing provision put forward is that which is viable for this scheme and accords with planning policy. In the event that this application were recommended for approval Officers would seek to negotiate that any provision was on site as opposed to a financial contribution in lieu to ensure that this site delivers some (albeit limited) affordable housing provision on site as per the policy requirements.

#### **iv Impact on Neighbouring Amenity**

- 7.5.1 The nearest adjacent dwellings are to the north of the site, including 166 Vansittart Road, the Health Centre and 1-46 Viscount Court. Other adjacent properties are 1-24 Camperdown House and 1- 38 Connaught Court to the east of the site, accessed from Alma Road.

- 7.5.2 A Daylight, Sunlight & Overshadowing Assessment has been prepared by Brook Vincent and Partners dated January 2018 in support of this application and assess the potential impact on neighbouring amenity. These assessments have been produced in accordance with the guidelines and methodology set out in the Building Research Establishment (BRE) document "Site Planning for Daylight and Sunlight: A Guide to Good Practice. The applicants' submissions stress the document's statement that the advice given is not mandatory, is not planning policy and that the numerical guidelines within it should be interpreted flexibly as natural light is only one of the many factors in site layout design.

- 7.5.3 166 Vansittart Road is a western facing dwelling located some 24- 26m north of the proposed development. As established under the last planning application the principal windows serving main habitable rooms at the bungalow opposite do not directly face the proposed development. However, a key concern is about a loss of outlook and privacy of the immediate rear garden area of this dwelling from the rear garden and that this would be overlooked by numerous windows in the facing elevations of the proposed northern buildings.

- 7.5.4 It has been established under the previous appeal that a four storey office development along this boundary was acceptable in terms of neighbouring amenity. This development varies in height and scale in relation to the previous planning permission, however along the northern boundary of the site the building is between five to four storeys in height. As discussed the ceiling heights for office developments are greater than residential as such the heights of the development is comparable to the extant planning permission on this site. Therefore the height and scale of the development is akin to that previously considered to be acceptable in relation to neighbouring amenity. In dismissing this appeal the Inspector concluded that:

*Nevertheless, no.166's wooden garden fence is about two metres high and the existing line of mature trees along the appeal site boundary would be remain largely intact, thus retaining most of the existing screening visible from the garden. Additional planting proposed by the appellant would further help break up the lines of the proposed development. As a consequence, I do not consider that the proposed development, despite being closer than the existing building, would result in a harmful loss of outlook from the rear garden of no.166.*

*With respect to privacy issues, the proposal would result in some downwards overlooking towards the rear garden of no.166 from higher level windows in the northern elevations of*

*the proposed buildings. However, the impact of this would be reduced by the proposed separation distance, the retained and reinforced tree screen and proposed 'window manifestations.' The latter have been described as a means for obscuring the glazing in particular windows, but fitting these with obscured glass instead would be a more satisfactory, tried and tested and long term solution for addressing concerns about overlooking.*

- 7.5.5 In view of this and the evidence set out in the Daylight and Sunlight Assessment and having due regard for the previous relationship which was considered acceptable it is not considered that the proposed development would result in a significant degree of overbearing and/or overshadowing to the rear garden area of this property which would have a detrimental impact on the amenities of the occupiers of the adjacent dwellings.
- 7.5.6 The perception of overlooking from residential is greater than in office use. As such revised plans have been submitted during the consideration of this application to omit the proposed northern facing balconies which would look onto 166 Vansittart Road rear garden area which will limit any potential overlooking and loss of privacy to this dwelling. In view of these revisions combined with the proposed separation distances, as well as the existing and proposed planting between the sites, it is not considered that the proposed development would result in a significant degree of overlooking to this property's immediate rear garden area.
- 7.5.7 Camperdown House is a block of flats positioned some 24m from the east of the proposed development, most of the units within this building are on short term holiday lets. The Daylight, Sunlight & Overshadowing Assessment has viewed this relationship and confirms that sufficient lighting will be retained to these windows, in line with the BRE's recommended guidelines.
- 7.5.8 The proposed development would be located some 35m from the side elevation of Connaught Court, in view of this separation distance and as the proposed development would face largely secondary windows in this property, it is not considered that the proposal would have a significant impact on the amenities of the occupiers of this adjacent building.

#### Prejudice the wider development of the area

- 7.5.14 At the closest point the proposed development would be 29-30m from the single storey health centre at Viscount Court, in view of this separation distance, it is not considered that the proposal would prejudice the potential future development of this site to meet the future needs of the community.
- 7.5.15 A letter of objection has been received from Windsor Forest Colleges Group which owns the adjacent car park off Alma Road (to the north east of the application site) and which was used in association with their building at Trinity Place/St Leonards Road. Under application 18/00065/VAR the College has recent been granted planning permission for this car park to no longer be retained in connection with aforementioned building. Subsequent to this, application 18/01323/FULL has been submitted for 5x 2 bedroom houses with access, parking and landscaping, under the address of Land North of Camperdown House Alma Road Windsor, at the terms of writing, the application was still under consideration. The dwellings proposed are east and west facing, with no habitable rooms facing the proposal. A previous height and scale has been considered acceptable on this site and it is not considered that the development would result in any greater significant impact on this adjacent site which would prejudice the potential future redevelopment of the car park.
- 7.5.16 The proposed development would retain a separation distance of at least 50m from the Police Station site. This is considered an acceptable relationship to ensure that this proposal does not prejudice the potential future redevelopment of the adjacent site. Buildings to the south are in community/ commercial use. There has been no indication of the buildings or uses being changed.

#### **v Provision of a Suitable Residential Environment**



- 7.6.1 Proposed new residential development should provide an appropriate level of lighting, outlook and amenity to all habitable rooms and be of suitable space standards. Developments are also expected to enhance existing landscaping and allow visual interest and amenity.
- 7.6.2 All the proposed units are of a sufficient internal floor space to accord with the National Space Standards.
- 7.6.3 The Daylight, Sunlight & Overshadowing Assessment prepared by Brook Vincent and Partners dated January 2018 also deals with the proposed accommodation. This assessment confirms that within the proposed accommodation, the layout ensures that over 90% of habitable rooms receive the benefit of good daylight and over 90% either face south, east or west.
- 7.6.4 Due to the size and scale of the development there are a number of units which run along the northern boundary of the site, a number of these will be dual aspect (and therefore benefit from some lighting through the internal courtyard area). There are also a number of units on each floor which are solely north facing. Whilst some secondary side facing (east and west) windows are proposed, these raise overlooking issues with other flats and amended plans proposed these be omitted or reduced in width which inevitably reduces the amount of sun light these units receive. Due to the staggered layout of the linked blocks, some units would also experience a significant degree of overshadowing, particularly those on lower floors. Therefore when looked at as a whole, the development is unlikely to have as such positive values as the report suggests. Notwithstanding this, for a large-scale development such as this, constrained as it is by orientation, overall the levels of amenity in terms of sun/ daylight to habitable rooms are acceptable for a development of this nature.
- 7.6.5 In relation to sunlight to amenity areas it is inevitable with this density and design that some areas would only receive limited sunlight, such as the South Eastern end of the courtyard. However, 99% of the second courtyard and 60% of the first would receive at least the 2 hours of sunlight target on March 21<sup>st</sup> which exceeds the target of 50%.
- 7.6.6 In terms of privacy due to the courtyard nature of the development there are a number of windows of flats positioned at close right angles from those adjoining. These windows are typically secondary or serve non habitable rooms (landings and bathrooms etc.) and as such conditions can secure these are obscurely glazed. The distances between the facing blocks across the internal court yards vary. At the closest point, facing flats will afford between a 26-20m separation distance from those opposite, the angle of orientation between each block does reduce the direct overlooking. In view of this relationship, and as the proposal is for a flatted development in the urban area where a greater level of mutual overlooking usually occurs, this relationship is considered acceptable.
- 7.6.7 The current Local Plan, notably policies R3 and R4, requires on site open space. However it is not specific on a flatted development such as this how this should be provided. BLPSV Policy IF4 is silent on open space requirements for non-allocated housing sites although other policies relating to character and design establish that site layouts should be appropriate for their context. The proposed residential development benefits from two podium level garden areas. Soft landscaping areas run between the two buildings. The proposed landscaping plans show opportunities for informal children's play space as part of this (this can be dealt with by way of condition and/or planning obligation as needed). In addition, the development is located adjacent to Vansittart Public Recreation Park which offers opportunities for direct access to open space and recreation. At the time of writing this report the Council's Community Regulation 123 list states that CIL may be spent on 'Sport and Recreation'. Further details of how the CIL monies generated from this development can go towards the delivery on infrastructure is set out below in section 7.8 on Infrastructure provision.
- 7.6.8 Private amenity space is proposed for the local residents in the form of proposed landscaped gardens above the podium parking. Most of the grounds floor units would benefit from a small

private amenity space and around 45% of units also benefit from their own balcony. In view of the above, as whole the amenity space of future occupiers is considered to be acceptable.

- 7.6.9 In terms of noise, a Noise Assessment has been prepared by Hydrock Consultants and submitted in connection with this application. Guidance standards have been referenced to establish satisfactory indoor noise levels, external noise levels and methods for determining prevailing background noise levels using National and Local Planning Policy guidelines.
- 7.6.10 The assessment demonstrates that potential future residents are unlikely to be affected by significant degree of noise, the only area of potential high noise exposures is to the south western corner of the residential block (from the road, proposed commercial uses, proposed office uses). It is proposed that this can be suitably mitigated through use of sound insulation as detailed in section 7: Design Guidance of the aforementioned report.
- 7.6.11 In relation to the amenity space, the report concluded that the courtyard areas would not be affected by significant levels of noise. Most balconies would not receive significant levels of noise, however some balconies closest to the road would marginally exceed the recommended criteria. In an urban location this is not unexpected. Whilst the report suggested that some mitigation could be provided (through having solid balustrade) this would not be visually acceptable. In view of this urban location such marginal conflict of the guidance is considered to be acceptable.
- 7.6.12 Separate secure refuse and recycling stores are shown. These should comply with space standards set out within the Sustainable Design and Construction SPD and further details and provision could be dealt with by way of condition.
- 7.6.13 Overall the proposed development is considered to provide an acceptable residential environment for future occupiers having due regards for the density of the development and its urban location.

## **vi Highway considerations and Parking Provision**

- 7.7.1 The site is located in a mixed- use area along Alma Road. This road is a key local distributor road that runs north from St Leonards Road via Goslar Way roundabout to Arthur Road. A Transport Assessment has been prepared by Transport Planning & Highway Solutions dated January 2018 in support of this planning application which sets out how this development is acceptable in highway terms having due regard for highway safety, capacity issues, parking provision, along with sustainable modes of transport. This has been reviewed by the Highway Authority.

### Highway safety and capacity considerations

- 7.7.2 Paragraph 23 of the NPPF (2012) states that:

*“Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

- 7.7.3 The site benefits from a single vehicular access that offers visibility splays that are considered appropriate for the scale of the proposed development.

- 7.7.4 In terms of the proposed vehicular movements associated with this proposed development, it is likely that this mixed used development could lead to a reduction in vehicular activity when compared to the extant planning permission. This is a material consideration in so far as, since this previous application was permitted, evidence submitted demonstrates that there has not been a significant increase in vehicular activity in the surrounding area. It should also be noted that the Council are relying on this site as a whole to deliver office floor space to meet future need. The approach detailed in policies ED1, ED2 and ED3 looks at the intensification of employment floor space on employment sites. An office led development of this site as proposed the Plan allocation would likely have a significant number of vehicular movements associated with it.
- 7.7.5 In view of the above it is not considered that the proposed development would result in increased vehicular movements above the previous planning permission for this site, nor the Council allocation in the BLPSV. On this basis the proposed development is considered to be acceptable in terms of highway safety and capacity grounds.

#### Parking Provision

- 7.7.6 In terms of parking provision the proposed office building would be supported by 219 car parking spaces (178 in the basement level and 41 at ground floor level), along with 94 cycle parking spaces. The residential development of 217 units is supported by 142 car parking spaces and 228 cycle parking spaces. Servicing vehicles for the residential units are accommodated in a lay-by within the site. 5% of both of the office and residential development parking provision would be designed for those with mobility issues. The applicants Transport Assessment also states that when issuing office and residential permits a priority will be given to those with mobility issues.
- 7.7.7 The proposed parking provision for the B1 unit is similar to the parking level granted for the previous development on the site. The previous 26,464 sqm (GFA) B1 office was supported by 498 on-site parking spaces, which equates to a parking ratio of space per 53 sqm. This is the level of parking which was previously approved and agreed under the last planning permission.
- 7.7.8 This ratio applied to the current proposal when excluding the proposed basement car park (11,677 sq.m GFA) result in a parking provision need of 219 spaces, which is the number of parking spaces proposed as part of this development. The proposal is therefore considered to provide suitable car parking provision for the office development in-line with that previously established to be acceptable at the site.
- 7.7.9 As part of this, the proposed office development provides 12 accessible parking spaces which accords with RBWM's current standards. 22 of the spaces are also proposed to be electric vehicle charging points with adaptability for other parking spaces to provide more electric charging points in the future. The applicants also proposed that a free shuttle bus service would also be provided for staff, and would connect to key transport nodes in and around Windsor. Such matters could be secured through planning obligations and a legal agreement.
- 7.7.10 The applicant also proposes the submission of an Office Parking Management Plan, the details of which are to be agreed with RBWM (Highways) prior to the occupation of the office. Such matters could be dealt with by way of condition.
- 7.7.11 In terms of 94 cycle parking spaces are located within the basement. Access to the basement area for cyclists would be provided by means of a demarcated route running along the ramp between the external ground floor area and the basement. This is considered sufficient for an office development of this scale.
- 7.7.12 As such overall it is considered that the proposed development provides sufficient parking provision of the proposed office development.

- 7.7.13 In terms of the residential development, 142 parking spaces are proposed. Fourteen of these car parking spaces are also equipped with electric vehicle charging points, with adaptability for other spaces to provide more electric charging points in the future. Three of the parking spaces are proposed to be for 'car club' spaces. The proposed car club would have 3 cars on site for residents to hire through an external management company. The aim being to reduce residents' reliance on car ownership whilst offering the ability to utilise private vehicles as needed.
- 7.7.14 Each of the two-bedroom and three-bedroom apartments are provided with one car parking space, with the remaining spaces allocated to the one-bed apartments. In overall percentage terms this equates to a parking provision of 65% of the number of units.
- 7.7.15 This development is circa 950 metres south of Windsor & Eton Central Station and within 800 metres south of Windsor Town Centre. In highway terms the site is considered to be within an accessible distance to public transport as well as retail and commercial facilities provided within the town centre. The nearest bus stops are located on Clarence Road, approximately 320m from the site.
- 7.7.16 The site is within an accessible location and as such a parking provision of one space per two-/three- bedroom unit is considered to be appropriate for the development and complies with the Council's Parking Standards (2004) for good accessibility areas. In accordance with the Council's Parking Standards the parking provision for the one-bedroom units would be 46 spaces, this proposal would provide only 17 spaces, falling some 29 spaces below the Council's current standards.
- 7.7.17 However the Government's Ministerial Statement (2015) states that:
- "Parking standards are covered in paragraph 39 of the National Planning Policy Framework. The following text now needs to be read alongside that paragraph: "Local planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network."*
- 7.7.18 The 2011 Census data reports a car ownership percentage of 61% in the 'Windsor & Maidenhead 012' area for flatted developments. PRS development is a managed system where those who are rental agreements would be clear as to use of parking spaces for occupiers. Parking management plans can also be provided as part of conditions to secure how this will be managed. The provision of an onsite car club will also assist in reducing residents need to have their own private vehicle.
- 7.7.19 A number of objections from local residents have commented on parking enforcement in restricted parking areas. On-street parking is either prohibited or restricted to residents in Alma Road with a Zone E permit between 08:00 - 20:00 or the general public through a pay and display with a maximum stay of 2 hours. Business permit holders are also allowed to park in these designated areas from 8:00 - 18:00 between Mondays and Saturdays. Existing residents with a Zone E permit are also permitted to park along St Marks Road as well as the general public through a pay and display, but for a maximum stay of 1 hour. Similar parking restrictions apply on Queens Road and Claremont Road.
- 7.7.20 On-street parking is managed and enforced by the RBWM's Parking Department. In the event that a planning permission is granted on this site enforcing this parking restriction will be an obligation for the Council to undertake and in the event that any planning permission were granted on the site the Council is able to prevent residents parking permits being allocated to future occupiers.
- 7.7.21 In terms of cycle provision the residential development will provide 228 cycle parking spaces located at ground floor within three areas adjacent to the main building access. This is considered to be sufficient parking to meet the Council's standards. Further details of the layout of the proposed cycle storage could be secured by way of condition.

### Services, access, and refuse

- 7.7.22 The development should provide clearly defined pedestrian footways or paths across the site to prevent conflicts between vehicular and pedestrian traffic. Suitable access for servicing should also be provided to allow for a vehicle to leave in a forward gear. As part of the Highway Authority initial response concerns were raised about pedestrian permeability through the site, service vehicles access and refuse collection.
- 7.7.23 The applicants' Highway Consultants have provided additional information which demonstrates that there is sufficient space for vehicles to manoeuvre into and out of the proposed office servicing area.
- 7.7.24 In terms of refuse areas for the residential building, the proposed refuse and recycling area is positioned internally to the north eastern corner of the building. The distance between the access into this area and where servicing vehicles would be parked is in the region of 20- 25 m. Due to the stores location and the size of the building, there is also some distance which residents would also have to walk to access the bike stores. Whilst the distances proposed are above those recommended, the applicants are proposing that this relationship can be managed through the assistance of onsite staff (for instance them collecting refuse internally from each unit and/or assisting in the refuse collection). In view of this managed system being in place it is considered that this relationship could be acceptable, subject to further details which can be secured by condition and planning obligation (as needed).
- 7.7.25 Overall the proposed development is one which is considered to be acceptable in highways and transport terms. The proposed development would not generate vehicle movements above and beyond the previous planning permission. The proposed parking provision for the office development and residential is one which is considered acceptable and reflective of the type of development and location. The development would also provide sufficient access and egress for pedestrians, cyclist, service vehicles and cars alike.

### **vii Infrastructure Provision**

- 7.8.1 A number of objections have been made in terms of the provision of infrastructure required to support the proposed increase in housing. A key concern is on the impact on GP places, schools and community facilities. The Council has published its Infrastructure Delivery Plan (IDP) in January 2018 which sets out the infrastructure needed to support the development coming forward in the Borough over the Plan period (including social infrastructure) and how this will be funded. However as this site is proposed to be allocated as a 'Business Area' and not for a mixed-use scheme with residential, the proposal would result in greater demand on infrastructure above that which has been accounted for a part of the Plan making process.
- 7.8.2 A key mechanism for funding infrastructure is the Community Infrastructure Levy (CIL) which the Council adopted in September 2016. This levy is to fund the infrastructure required to support development across the Borough. For residential development in Windsor it is set at £240 per square metre (net increase of floor space). CIL is effectively a pool of contributions which is used in order to fund infrastructure to support new development across the Borough.
- 7.8.3 No CIL receipts have been allocated from the redevelopment of this site (as the CIL level for office use is £0). At a residential rate of £240 sq.m, the applicants have estimated that the receipts associated with the development would be in the excess of £6.5 million (when taking into account indexation). This contribution can go towards the infrastructure needed to support the growth of the Borough, including the increased demand on GP places and schools associated by the proposed development, along with the provision and/or maintenance of open space.
- 7.8.4 The applicants have submitted a Social Economic Assessment as part of their application. This claims that there is existing capacity of GP places in the local area to support this development

and other planned developments coming forward. The Council's Infrastructure Delivery Plan (IDP) has been published since the applicants prepared their Social Economic Assessment. The evidence in the IDP agrees that the existing provision ratio of GPs in Windsor, Ascot and Maidenhead is better than the Department of Health's target patient list. However, as set out in IDP, the Borough has a high concentration of residential and nursing homes which places pressure on existing facilities due to the higher dependency of elderly patients in primary care facilities. The Clinical Commissioning Group (CCG) assumes no surplus capacity GPs in the Borough and estimates a need for additional GP's to meet the future growth across the Borough. The IDP identifies how the Council working in connection with the CCG and the NHS can look to accommodate the future growth in demand.

- 7.8.5 Both the Social Economic Assessment provided by the applicants and the Council's IDP identify a deficit in future school places; this will be made worse by this proposed development. The methodology and level of deficits varies. However, currently, the appropriate mechanism to make such a development acceptable in planning terms is through the provision of CIL financial contributions.
- 7.8.6 Thames Water was consulted on this planning application and in their initial response has identified an inability of the existing water network infrastructure to accommodate the needs of this development proposal. Thames Water have recommended that in the event planning permission was granted a 'Grampian condition' would be required that regarding a drainage strategy to ensure that there is sufficient capacity to cope with the new development. The applicant's consultant, Hydrock, have provided further information and their commitment to the drainage strategy and the developer's commitment to pay a proportionate cost of any works needed to upgrade the existing utility infrastructure to maintain sufficient flows for existing and proposed residents.

#### **viii Impact on trees**

- 7.9.1 Policy N6 of the adopted Local Plan states that plans for new development should, wherever practicable, allow for the retention of existing suitable trees and include an appropriate tree planting and landscaping scheme. Where the amenity value of trees outweighs the justification for development, planning permission should be refused. BLPSV Policy SHP3 requires development to protect trees and vegetation worthy of retention and includes comprehensive green and blue infrastructure schemes that are integrated into proposals. Policy NR2 of the BLPSV seeks the protection and retention of trees, and where needed suitable mitigation. Where the amenity value of the trees, outweighs the justification for development, planning permission may be refused.
- 7.9.2 Trees within the site make an important contribution to the character and appearance of the local area. Views of these trees can be obtained from Vansittart Road, Alma Road, the spur road off Alma Road which services properties including the Youth Centre, Goslar Way, Vansittart Recreation Ground and the public footpath from Alma Road to Vansittart Road. However none of these trees are afforded protection by a Tree Preservation Order.
- 7.9.3 The two key boundaries regarding trees are to the north and west where the trees are prominent and form green corridors for pedestrian and highway users.
- 7.9.4 The Council's Tree Officer has reviewed the proposal and has raised a number of queries and concerns about the proposed development. In response to this the applicants have provided direct commentary to refute the concerns and queries raised as opposed to providing amendments and/ or revisions to overcome concerns.
- 7.9.5 The Tree Officer considers that the proposed residential building located to the north end of the site would result in conflict with the trees located on the northern and western corner and would also affect outlook and cause shading, resulting in pressure to detrimentally prune or even remove trees. Whilst the previous planning application granted a commercial building which was in close proximity to these trees, a residential building would increase the conflict as home

owners have a greater expectation of good light levels, thus compromising the future retention of the tree. Queries have been raised regarding the Root Protection Areas (RPA) of the proposed trees along the northern boundary and the Tree Officer requested that the RPA's of trees should be redrawn to take into account the negligible rooting underneath the adopted highway. However, the applicants Arboricultural Consultants do not consider that this is necessary. Having due regard for the advice of the Council's Tree Officer, along with that contained BS 5837:2012 it is considered that the applicants have failed to demonstrate that the proposed development would not be in the RPA of trees identified as T23, T22, T18, T15.

- 7.9.6 In terms of the western boundary of the site the Council's Tree Officer has concerns about the loss of the 'A' category Weeping beech as a result of the residential development. However a replacement tree is proposed to the south eastern corner of the site which is considered a more prominent location and would allow the tree sufficient space to mature.
- 7.9.7 Further concerns regarding the loss of the 9 'B' category trees have also been raised along the western edge. The applicants Arboricultural Consultants assert that the loss is to improve the landscape which can only be achieved through selective removal of moderate and low quality trees and new planting of high quality trees offering a greater level of visual amenity than those trees selected for removal. However the Council's Tree Officer does not consider that it has been demonstrated that either an equal or better quality tree planting scheme can be implemented.
- 7.9.8 The Tree Officer considers that as proposed there is limited space for planting to the south eastern corner of the site, adjacent to the commercial building. The Tree Officer has also raised objection to the loss of all trees along the southern boundary. The existing boundary planting consists of a mixed group of trees with dense undergrowth that overhangs an adjacent public path. The proposed landscaping plan indicates that the loss of planting would be offset by the planting of a new hornbeam hedge and hornbeam trees; this is considered to offer suitable mitigation and is visually acceptable along this southern boundary.
- 7.9.9 The proposed development effectively proposes built form across the site and in doing so requires the removal of a number of trees within the site and along the site boundaries. Pressures on these trees and their retention are increased due to the position of the large buildings and proximity to site boundaries, the basement below the office also adds further constraints in providing meaningful planting. However, the relevant policies require consideration if the amenity value of trees outweighs the justification for development. The loss of some of the trees on site forms part of a wider landscape strategy which includes replanting and new tree planting. When balanced against the trees to be removed as part of this application and/or the trees which in the future could be compromised it is not considered that individually or cumulatively that the amenity value would be so high as to outweigh the justification for this proposed development.
- 7.9.10 Moreover the Council's Open Space Manager and Landscape Officer would encourage greater permeability from this site to the adjacent park and Vansittart Road, (whilst such a layout should be informed by a more legible form of development), such permeability (and as shown in the extant planning permission) would result in the loss of a number of existing low quality trees on this site. In the event that permission were granted conditions regarding detailed Tree Protection details and a detailed Landscape Plan would be secured, along with Landscape Management details and site access being secured as part of any Legal Agreement.
- 7.9.11 Concerns were also raised about some of the proposed surface water drains within the RPA of retained trees and potential conflicts with new utilities and retained trees. This is not considered reasonable grounds to raise an objection to the scheme and any issues can be adequately dealt with by way of conditions. Other concerns have been raised about the lack of green roofs in the proposed residential development (a brown roof is proposed on the office development). Whilst both adopting and emerging local policy, along with the NPPF (2012) encourages utilisation of biodiversity enhancements, including green roofs there is no requirements for this to be provided as part of this scheme. Details of the proposed brown roof can be secured by way of

conditions. Matters pertaining to biodiversity, ecology, flooding and Sustainable Urban Drainage are considered below.

## **ix Other Environmental Considerations**

### Ecology and biodiversity enhancements

7.10.1 Paragraph 109 of the NPPF (2012) states that

*"The planning system should contribute to and enhance the natural and local environment by [...] minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".* In addition, Section 40 of the Natural Environment and Rural Communities Act 2006 states that *"Every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity".*

7.10.2 The application is supported by a Preliminary Ecological Appraisal prepared by Greenage dated September 2017 and a Reptile Survey dated October 2017. Following concerns expressed by local residents a Technical Response dated 16 February 2018 has also been produced alongside an Internal Bat Inspection dated 27 February 2018.

7.9.3 The Survey work undertaken demonstrated that the site had negligible potential for great crested newts, dormice, badgers, water voles and otters.

7.9.4 In terms of impact on bats, all bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2010, as amended, the Countryside of Rights and Way Act 2000 and the Wildlife and Countryside Act 1981, as amended. Seven bat species are considered Species of Principal Importance (SPI's) under Section 41 of the NERC Act 2006. Following concerns expressed by local residents an internal and external inspection of the underground car park and an external inspection of all trees on site were undertaken by Council's Officers and the applicants Ecologist on 22 February 2018 in order to assess their potential to support roosting bats. This is summarised in the additional Bat Inspection provided by Greenage. Overall the structure was recorded as having negligible potential to support roosting bats. Given bats could enter the structure through the open light wells and gaps around the doors, the applicant's ecologist has recommended that a precautionary check immediately prior to demolition is undertaken, in order to ensure that bats are not within the building. Such matters can be dealt with by way of condition.

7.10.5 Some trees have low potential to support roosting bats, in line with best practice guidelines, the applicant's ecologist has recommended that an inspection of the trees immediately prior to felling is undertaken in order to ensure no bats are roosting within the trees. This can be dealt with by way of condition.

7.10.6 In terms of reptiles the site was recorded as having suitable habitat to support reptiles and therefore a further survey was undertaken in order to establish any presence of this species group in the site. All native species of reptile are protected from killing and injury under the Wildlife and Countryside Act (1981) as amended. In addition, all common native species of reptile are Species of Principal Importance under Section 41 of the NERC Act 2006 and receive further protection through national planning policy. No reptiles were recorded during the further survey and it was concluded that reptiles are likely absent from the site and as such it is considered that there are no further issues in this regard.

7.10.7 The scattered trees and scrub have the potential to support breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended). The applicant's ecologist has provided information with regards to sensitive timing of vegetation removal and protective measures



concerning nesting birds during the breeding bird season. In addition, it has been recommended that replacement habitat (appropriate planting and nest boxes) is provided within the new development. Such matters can be dealt with by way of condition

- 7.10.8 In terms of Biodiversity Enhancements the above supporting documents provide a number of recommendations for ecological enhancement in order to provide compensation for any habitats lost and in order to provide a net gain in biodiversity at the site. These include incorporation of wildlife landscaping, planting of native tree species, a biodiverse roof for the office is also proposed along with bat and bird boxes and hedgehog friendly boundary features. An ecological management plan, detailing the creation, maintenance and management of all biodiversity enhancements could be secured by way of condition.

#### Impact on Noise or Air Quality

- 7.10.9 An Air Quality Assessment has been prepared by Hydrock Consultants and submitted in connection with this application. The findings and conclusions of the assessment were that the air quality impacts from the development are not considered to be significant. The Council's Environmental Protection Team has reviewed the information submitted and have agreed that the findings and consultations of this Assessment are acceptable and have raised no objection subject to conditions.

#### Contaminated Land

- 7.10.10 A Contaminated Land Assessment has been provided as part of this application which sets out how the applicants will deal with any contaminated land discovered at this site. The Council's Environmental Protection Team has been consulted on this planning application and has raised no objections in these grounds. Such matters can be secured through conditions.

#### Flood Protection and Sustainable Urban Drainage

- 7.10.11 As set above, the principle of the development within Flood Zone 2 is considered to pass the Sequential Test. Most of the site is located within Flood Zone 2, although the most eastern part of the site including the site access off Alma Road is located in Flood Zone 1.
- 7.10.12 The NPPF (2012) states that 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; and development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
- 7.10.13 On the 19th February 2016, the Environment Agency issued updated advice stipulating how climate change allowances should be incorporated into site specific FRAs and any proposed SuDS features. Generally, designs will be required to incorporate higher river flows than the previously recommended.
- 7.10.14 Flood Zone 1 is only located to the most eastern part of the site, where the main access and egress of both of the buildings is located. This is considered to be the most practical arrangement in terms of flood protection to ensure safe access and egress in the event of a flooding event.
- 7.10.15 In terms of flood resilience and resistance a Flood Risk Assessment (FRA) has been submitted as part of this planning application. The FRA sets out design measures to ensure that the basement level parking is safe from water entry (to protect these areas, the elevation plans show that the FFLs of the entrance to the basement level parking will be above the predicted flood level, plus climate change). Any ground floor units and lobby areas are also proposed to be positioned above this level which means that safe dry access and egress from the site can be achieved. The FRA also states that a Flood Risk management plan will also be provide as part of any development granted.

- 7.10.16 In terms of Sustainable Urban Drainage and as introduced from 6 April 2015 the Government strengthened planning policy on the provision of sustainable drainage systems (SuDS) for 'major' planning applications (Paragraph 103 of National Planning Policy Framework and Ministerial Statement on SuDS). As per the guidance issued by the Department of Communities and Local Government (DCLG), all 'major' planning applications must consider sustainable drainage systems. Developers are advised to assess the suitability of sustainable drainage systems in accordance with paragraphs 051, 079 and 080 of the revised NPPF Planning Practice Guidance (PPG) for Flood Risk and Coastal Change. Sustainable drainage systems should be designed in line with national Non-Statutory Technical Standards for SuDS.
- 7.10.17 SuDS must be properly designed to ensure that the maintenance and operation costs are proportionate and sustainable for the lifetime of the development. Hydraulic calculation and drawings to support the design need to be provided along with proposed standards of operation and maintenance in accordance with paragraph 081 of NPP (PPG).
- 7.10.18 In accordance with The Floods and Water Management Act 2010 the Royal Borough in its role as Lead Local Flood Authority (LLFA), is a statutory consultee for all major applications. The LLFA have considered the proposal and the applicants Sustainable Urban Drainage information submitted as part of this planning application, along with the additional information submitted during the course of the application and confirmed that there is no objection in principle to the proposed development in terms of Sustainable Urban Drainage. In the event that planning permission was permitted then additional information full details of the proposed surface water drainage system and its maintenance arrangements would be required. This could be dealt with by way of condition.

#### Sustainability and Energy

- 7.10.19 New development is expected to demonstrate how it has incorporated sustainable principles into the development including, construction techniques, renewable energy, green infrastructure and carbon reduction technologies. An 'Energy and Sustainability Statement' dated 21 December 2017 has been proposed by Hydrock in support of this application which sets out the sustainable technique incorporated into the proposed development. This includes passive design, insulation and natural ventilation to improve the efficiency of the residential building. A Combined Heat Power (CHP) is also proposed for the residential building. Overall the development would be able to target a minimum 10% reduction which could be achieved through the installation of the CHP system for the whole development.
- 7.10.20 In terms of the office building, passive design techniques are proposed including utilising the siting of the building to benefit from lighting across the day, utilising efficient building fabric and being mechanically ventilated to control the internal environment. Photo voltaic solar panels are also proposed on the roof of the office building. A brown roof is also proposed to the office development which would provide an improved microclimate for the solar panels which would be sited there and would also incorporate biodiversity enhancements though attracting bird nesting's.
- 7.10.21 In terms of sustainable design and construction the document looks a how waste will be minimised during the construction process and how materials selected will have low environmental impact.
- 7.10.22 The proposed development is also designed to minimise pollution, be adaptable to climate change and also consider health and wellbeing are part of the development. On this basis the proposed development is considered to sufficiently incorporated sustainable design techniques into the proposed development and complies with National and locally adopted and emerging policy in this regard, along with the Council's adopted Sustainable Design and Construction SPD (2009).

#### Archaeological matters

7.10.23 An archaeological desktop assessment has been submitted in connection with this application. This concludes that that the site has limited archaeological potential. Berkshire Archaeology is satisfied that there are no concerns with this proposal as regards the buried archaeological heritage.

#### **x Other Considerations**

7.11.1 Concerns have been expressed by local residents about potential anti-social behaviour. The proposed residential block would operate under a managed system with staff on site at all times. The buildings would also offer a fairly high degree of natural surveillance to all areas, including the proposed walk through to the park. In terms of the office building, conditions could secure details of the proposed measures to design out crime. A lighting scheme and measures to provide CCTV would also be provided through conditions/ legal agreement as needed. It is also worth highlighting that a residential development does provide a greater level of natural surveillance during weekend and evenings than an office development.

7.11.2 Another concern of the local residents is that the residential development could be erected without the office development, resulting in a piece meal development, and/or the whole of the site being developed for residential purposes in the future. The applicants have stated that the development would be phased and whilst all works on site would likely commence at the same time (to commence construction of the basement associated with the proposed office development), if planning permission were granted it could be that the residential development would come forward prior to the office development. In the event that planning permission was granted and the office development did not come forward then any revised application of the southern part of the site (where the proposed office development is located) would have to be considered on its own merits. If planning permission is granted for this application, Officers would recommend that this be subject to a legal agreement which should include a 'clawback' position where the Council has the opportunity to review the affordable housing position and viability of the development which has come forward.

7.11.3 Paragraphs 7 and 14 of the NPPF (2012) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF (2012) states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The BLPSV sets out a stepped housing trajectory over the Plan period (2013-2033) for the delivery of the Borough's objectively assessed housing need. 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.

## **8. CONCLUSIONS**

8.1 The designation of the former Imperial House site along Alma Road as a 'Business Area' forms an integral part of BLPSV Policy ED2, which combined with Policy ED3 establishes the approach to deliver the employment floor space to meet the needs of the Borough, as set out in Policy ED1, in the right location.

8.2 To permit this planning permission would grant the loss of half of this Business Area. This would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the BLPSV, this Plan is at an advanced stage but is not yet formally part of the development plan for the area and would undermine policies ED1, ED2 and ED3 and the wider economic strategy set out in the BLPSV, which has been endorsed by Full Council. Policies ED1, ED2 and ED3 are part of the wider economic strategy which informs the BLSV which relies on maintaining sufficient contingency in the current supply of employment land to meet need through the intensification of employment floor space on existing employment sites and new land allocations. The principle of allowing a mixed-use development on this site and, effectively, thereby permitting the loss of over half of the site to residential use,

would result in a substantial loss of the land needed to meet the future employment need for the Borough and, more specifically, Windsor.

- 8.3 Furthermore, the owners and/or developers of a number of other sites designated or allocated in the BLPSV for employment development are also promoting those sites for residential development. To allow alternative development on the application site would set a precedent for the consideration of those applications, making it difficult for the Council to resist proposals involving a change of use, or redevelopment, for residential development. The potential cumulative impact of any such planning decision would also substantially undermine the plan-making process and the policies and strategy set out in the BLPSV, which has been endorsed by Full Council.
- 8.4 Whilst Officers have a number of concerns regarding the scale and massing of the proposed development, it is not considered that the potential impact on the wider character and appearance of the area would be so harmful as to warrant a recommendation for refusal on these grounds.
- 8.15 Having due regard for the overall planning balance, it is not considered that other material considerations weighing in favour of the proposal (as identified within this report), either individually or cumulatively, justify granting planning permission. Those benefits include bringing a vacant urban site back into use, the delivery of some employment floor space and the residential development to meet identified needs for market and affordable housing in the Borough, all of which weigh in favour of granting planning permission.
- 8.6 The proposed development is therefore contrary to the National Planning Policy Framework (2012) and associated Planning Practice Guidance, and contrary to Policies ED1, ED2 and ED3 of the Borough Local Plan Submission Version (2018).

## 9. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 9.1 In line with the Council's Charging Schedule the proposed development would now be CIL liable. The applicant has submitted the required forms including the assumption of liability for payment on the net increase in gross internal floor space. The required CIL payment for the proposed development would be in the region of £6.5 million (having due regard for indexation and any potential deductions through onsite provision). This is dealt with further in paragraphs 7.7.26- 7.7.31 as set out above

## 10. CONSULTATIONS CARRIED OUT

### Comments from interested parties

- 10.1 Some 495 local residents were consulted on this planning application, the extent of the neighbouring consultation reflects the interest local residents had in the previous planning application on this site. Site notices were displayed on Alma Road and at the corner of Vansittart Road on the 22 January 2018.
- 10.2 303 letters were received from individual(s) objecting to the application (this includes a petition with 33 signatures), comments made can be summarised as follows:

Comment		Paragraphs where in the report this is considered
1.	The large dominating design of the development is out of character with the area	Section 7.3
2.	Development would result in loss of visual amenity	Section 7.3
3.	Impact on townscape including views of Trinity Church	Section 7.3
4.	Impact on the adjacent Conservation Area	Section 7.3

5.	7 storey building is out of character with the area	Section 7.3
6.	Insufficient parking for the development	7.7.6- 7.7.21
7.	Development would have a detrimental impact on the highway network	Section 7.7 considers highway matters
8.	There is insufficient infrastructure to support the development	Section 7.8 addresses matters regrading infrastructure provision
9.	Concerns over loss of sun/ day light and overbearing impact on neighbouring properties, and loss of privacy	Section 7.5 assess potential impact on neighbouring amenity
10.	Impact on the value of nearby properties	This is not a material planning consideration
11.	Disagrees with the post application consultation undertaken by the developers	Noted
12.	No objection to low density family housing in this location	Noted- see section 7.2 on principle of development
13.	Site should be for social housing which will benefit the town	7.4.1- 7.4.6
14.	Concerns about increased antisocial behaviours resulting from this development	7.11.1
15.	No/ lack of affordable Housing provision	7.4.1- 7.4.6
16.	Too high a density	Section 7.3
17.	The proposed development is an overdevelopment of the site	Section 7.3
18.	The residential block is not aimed for local people	Matters regarding housing mix are dealt with in 7.2.36- 7.2.41 Affordable Housing is dealt with in 7.4.1- 7.4.6
19.	Concerns about highway safety due to the proposed access	Section 7.7 considers highway matters
20.	Development will increase flooding issues and surface run off	7.10.11- 7.10.18
21.	Increased air and traffic pollution from the development	Section 7.7 considers highway matters. Para 7.10.9 deal with air quality
22.	The development is of poor design	Section 7.3
23.	The development proposed is designed to maximise developer profit	Noted. Section 7.3 deals with design
24.	The proposal would result in a development which would be greater than the extant planning permission	Section 7.3 deals with design
25.	Concerns about impact on ecology and protected species	7.10.1-7.10.8

26.	There is no existing need for smaller residential units	7.2.36- 7.2.41
27.	The local need is for 3+ bedroom units in Windsor	Matters regarding housing mix are dealt with in 7.2.36- 7.2.41
28.	The CIL contribution and a further offer of £1.5 million for affordable housing to be provided off site should not be a reason for accepting this planning application	Affordable Housing is dealt with in 7.4.1- 7.4.6 Section 7.8 addresses matters regarding infrastructure provision
29.	The Windsor Neighbourhood Forum support the <i>principle</i> of the mixed use redevelopment of the site they have concerns about; massing, parking, highway safety, capacity, the proposed design, impact on the adjacent Conservation Area, lack of any affordable Housing and insufficient Foul and Surface Water Drainage.	Section 7 of the Officer report considers all relevant matters
30.	Old Windsor Parish Council object on the grounds of highway and sewage capacity	Section 7.7 considers highway matters. Para 7.8.6 deals with sewage capacity
31.	Extant planning consent can be attributed minimal weight in the determination of this application as a realistic 'fall-back' position	7.2.1-7.2.2
32.	The previous appeal decision does pre-date the publication of the National Planning Policy Framework (NPPF) in 2012	7.2.1-7.2.2
33.	The residential development can be delivered independent of the office, further planning applications could replace the office element in the future	7.11.2
34.	Development will undermine emerging planning policy	7.2.3-7.2.28
35.	Concerns about the impact on trees	7.9.1- 7.9.11
36.	Historic England should be consulted on this planning application	7.3.7
37.	Concerns about the impact on the adjacent Conservation Area and the comments from the Conservation Officer	Section 7.3 deals with design including impact on Heritage Assets
38.	Queries the methodology of the sequential test	7.2.29- 7.2.35
39.	Application should investigate the use of SuDs	7.9.11- 7.9.18

### Consultees

#### 10.3 Summary of responses from the consultees

Consultee	Comments	Paragraphs where in the report is this considered
Housing Enabling Manager	This application proposes 217 residential dwellings resulting in the policy requirement of 65 affordable homes. Affordable housing is required to be provided	Affordable Housing is dealt with in section 7.4

	<p>on-site.</p> <p>As no on-site affordable housing contribution is proposed in this application, the proposals for affordable housing are unacceptable.</p>	
District Valuers Service	<p>On current costs and values it's not viable. Carter Jonas have prepared a paper called Build to Rent Statement which seeks to show that if growth in value is taken into account the scheme will increase in value over a period of years and on the basis that the applicants intend to hold the scheme, will benefit from this up lift. On this basis they are willing to offer the contribution even though the scheme is currently not viable.</p>	Affordable Housing is dealt with in section 7.4
Thames Water	<p>The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water) and upgrade works have been undertaken</p>	Para 7.8.6 deals with sewage capacity
Environmental Protection	<p>Any potential impact in terms of noise and dust during construction can be dealt with by way of conditions.</p> <p>It is considered that the proposed development provides suitable mitigation in terms of any potential impact on noise</p> <p>Any potential noise impact from the operation of the development can be dealt with by way of conditions.</p>	7.10.9
Highway Authority	<p>The proposed development is likely to lead to a decrease in vehicular activity onto the local highway network in comparison to the previously approved scheme.</p> <p>The parking ratio for the B1 office and residential parking provision is considered acceptable.</p> <p>There is a concern with regard to pedestrian permeability</p> <p>The cycle parking strategy complies with the Borough's Parking Strategy (2004</p> <p>Concerns about servicing access.</p>	Section 7.7 considers highway matters
Council's Landscape Officer	<p>The scheme fails to make greater connection to the Park. The layout of landscape scheme in the street fails to create a legible link to the park.</p> <p>Suitable defensible space/ planting should be considered for the ground floor apartments</p> <p>Door step play should be provided at podium level. Play opportunities near café can be more incidental such as sculptural benches etc.</p> <p>Additional information about trees, planting, lighting,</p>	Section 7.3 deals with design including landscaping

	management and external materials have not been provided.	
Council's Outdoor Facilities Manager	<p>The proposal has disconnected the development from the adjacent park by incorporating boundaries to the development instead of incorporating the park.</p> <p>Our vision/aspiration was to incorporate the development so it seemed to be part of the park with a seating area &amp; café overlooking the park but still keeping minimal vehicle access.</p> <p>The location for the small play area for toddlers seems odd</p> <p>CIL funds would be expect to enhance the adjacent park for the planned development users.</p>	Section 7.3 deals with design including landscaping
Ecology Officer	No objections subject to conditions	7.10.1- 7.10.8
Arboricultural Officer	Raises objections and concerns about the proposals impact on trees	Section 7.9 deals with trees
Lead Local Flood Authority	No objection to the principle of the development. In the event the application is approved recommends conditions	7.10.11-7.10.18
Historic England	We do not wish to offer any comments and suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.	Noted and acknowledged in 7.3.7
Highways England	Having examined the above application we do not offer any objections to this proposal as due to its distance to Strategic Road Network the proposal is unlikely to have significant impact on safe and efficient operation of the M4 motorway.	Noted
Environment Agency	Not development they wish to be consulted on (and refer to standing advice)	Noted
Access Advisors Forum	Clarification regarding the number of blue badge spaces.	Para 7.7.1 sets out the disabled car parking provision

## 11. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – Overall plans and elevations of the development

## 12. REASONS FOR REFUSAL

- 1 To permit this planning permission would result in the loss of half of this 'Business Area'. This would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the Borough Local Plan Submissions Version (2018) and would undermine policies ED1, ED2 and ED3 and the wider economic strategy set out in the Borough Local Plan Submissions Version (2018), which has been endorsed by Full Council. This Plan is at an advanced stage but is not yet formally part of the development plan for the area. Therefore it is considered that if planning permission were granted the development proposed would substantially undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that is central to the Borough Local Plan Submissions Version (2018). In addition, the owners and/or developers of a number of other sites designated or allocated in the Borough Local Plan Submissions Version for employment



development are also promoting those sites for residential development. To allow alternative development on the application site would set a precedent for the consideration of those applications, making it difficult for the Council to resist proposals involving a change of use, or redevelopment, for residential development. The potential cumulative impact of any such planning decision would significantly undermine the plan-making process and the policies and strategy set out in the Borough Local Plan Submissions Version (2018).

- 2 The proposed development has also failed to justify the loss of employment land, and so would be detrimental to the future employment needs, locally available employment opportunities and the economy of the area. The proposed development is therefore contrary to the National Planning Policy Framework (2012) and its associated guidance, policy E6 of the adopted Local Plan (2003), along with emerging policies ED1, ED2 and ED3 of the Borough Local Plan Submission Version (2018).

### **Informatives**

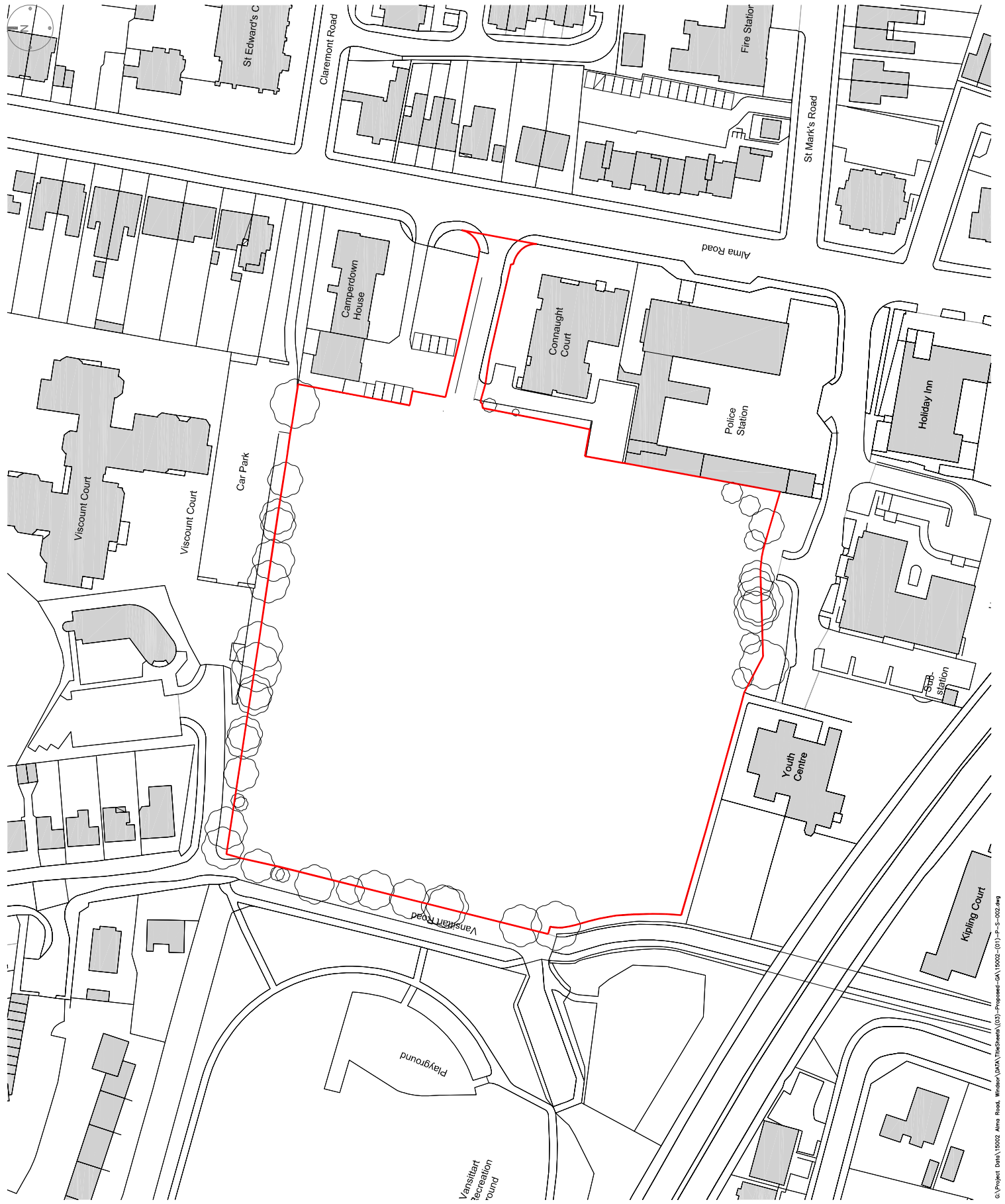
- 1 The plans relating to and considered as part of this planning application are set out in the Amended Drawing Issue Sheet dated 26.04.2018 rev P1 and received by the Local Planning Authority on the 01.05.2018.

**General Notes**

This drawing is the property of Darling Associates. It is to be used for the purpose for which it is prepared and is not to be used for any other purpose without the written consent of Darling Associates. The drawing is prepared on the basis of the information provided to Darling Associates and is not to be used for any other purpose without the written consent of Darling Associates. The drawing is prepared on the basis of the information provided to Darling Associates and is not to be used for any other purpose without the written consent of Darling Associates. The drawing is prepared on the basis of the information provided to Darling Associates and is not to be used for any other purpose without the written consent of Darling Associates.

**Notes**

Drawings, specifications and schedules are to be read in conjunction with the following where drawings and specifications conflict. Call Engineer's drawing for any specifications. Survey Control: OS 1:50,000. Other specific design and construction requirements as specified by the Main Contractor.



ISSUED FOR PERMITTING	10/01/18	JB	CD
REV	NOTES	DATE	BY

**DARLING ASSOCIATES ARCHITECTS**

1 Greencoat Row  
London SW1P 1PQ  
UK  
mail@darlingassociates.net  
www.darlingassociates.net  
+44 20 7630 0500

DRAWING STATUS	Planning
TITLE	Existing Site Plan
PROJECT	Alma Road, Windsor
SCALE AT A4	1:1000
SCALE AT A3	1:500
JOB NO.	15002
DRAWING	(01)-P-S-002
REV	PL



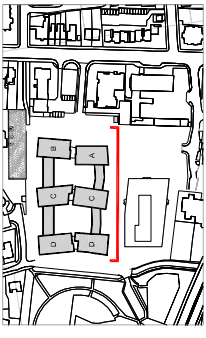


### General Notes

This drawing is the property of Darling Associates. This drawing shall not be used for any other project without the written consent of Darling Associates. All dimensions and quantities are approximate and shall be subject to change without notice. The contractor shall be responsible for obtaining all necessary permits and approvals for this project. The contractor shall be responsible for obtaining all necessary permits and approvals for this project. The contractor shall be responsible for obtaining all necessary permits and approvals for this project.

Drawing specifications and standards are to be read in conjunction with the details where drawings are not sufficient. Call Engineer's Office for any specifications. Survey Control is the responsibility of the contractor. Other specialist design subcontractors may be appointed by the Main Contractor.

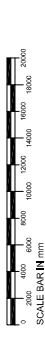
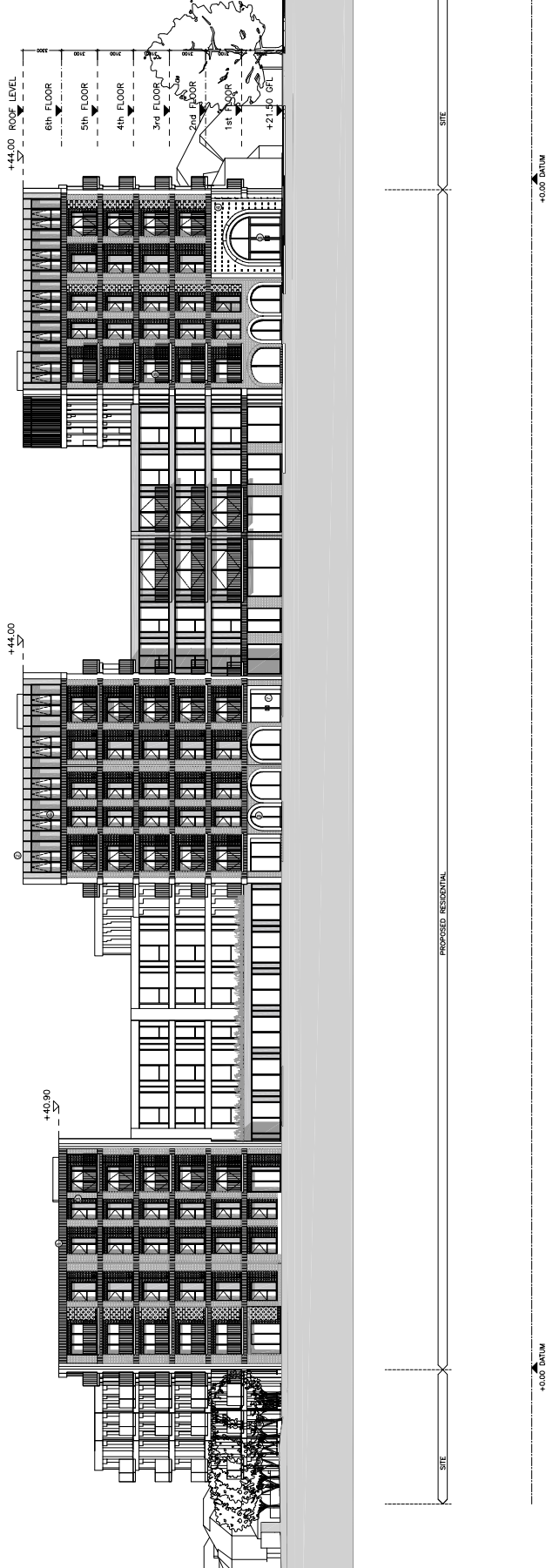
### Key Plan



### Notes

#### Legend

- ① Honey creamy coloured liststock brick
- ② Light brown enameled aluminium cladding
- ③ Bronze Anodised Aluminium cladding panel, window and door frames
- ④ Decorative Brick liststock Brick
- ⑤ PPC galvanised steel balustrades
- ⑥ Anodised aluminium window
- ⑦ Light brown enameled aluminium Door



PL	ISSUED FOR PERMITTING	11/01/2019	AS	CD
REV	NOTES	DATE	BY	AUTH

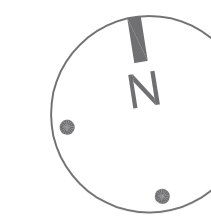
# DARLING ASSOCIATES ARCHITECTS

1 Greencoat Row  
London SW1P 1PQ  
UK  
 mail@darlingassociates.net  
www.darlingassociates.net  
 +44 20 7630 0500

### DRAWING STATUS

**Planning**

TITLE	<b>Residential Building Proposed South Elevation</b>
PROJECT	Alma Road, Windsor
SCALE AT A3	1:200
SCALE AT A4	1:400
JOB NO.	15002
DRAWING	(03)-R-E-002
REV	PL
	© Darling Associates Ltd.

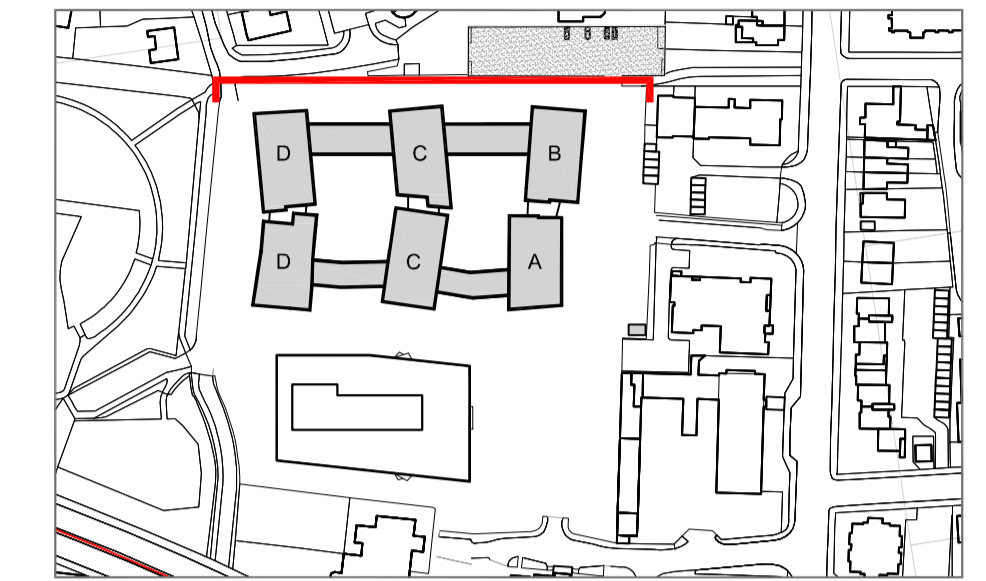


### General Notes

The drawing is copyright of Darling Associates. This drawing shall not be scaled. All dimensions are in mm unless otherwise stated. All dimensions shall be checked on site prior to commencing the works and any discrepancies to be reported to Darling Associates. All works shall conform to the current edition of the building regulations and other statutory requirements. All materials and workmanship shall conform with the relevant British Standard specifications and codes of practice. If this drawing forms part of an application for planning permission, it shall not be used for any other purpose without the express permission of Darling Associates. This drawing may incorporate information from other professionals. Darling Associates cannot accept responsibility for the integrity and accuracy of such information. Any clarification and/or additions that are required appertaining to such information should be sought from the relevant profession or their appointment representative.

Drawings, specifications and schedules are to be read in conjunction with the following where applicable: Employer's Requirements documents, Agreements to Lease, Structural Engineer's drawings and specifications, Civil Engineer's drawings and specifications, Survey Drawings, Party Wall Boundary Awards, Other specialist design consultant's requirements as appointed by the Main Contractor, Other specialist design sub-contractor's requirements as appointed by the Main Contractor.

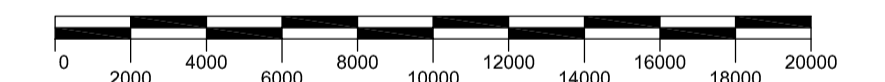
### Key Plan



### Notes

#### Legend

- ① Honey creamy coloured 1bstock brick
- ② Light brown anodised aluminium cladding
- ③ Bronze Anodised Aluminium cladding panel, window and door frames
- ④ Decorative Brick 1bstock Brick
- ⑤ PPC galvanised steel balustrades
- ⑥ Anodised aluminium window
- ⑦ Light brown anodised aluminium Door



SCALE BAR IN mm

P1	ISSUED FOR PLANNING	18/04/2018	PR	CD
PL	ISSUED FOR PLANNING	11/01/2018	JS	CD

REV	NOTES	DATE	BY	AUTH
-----	-------	------	----	------

## DARLING ASSOCIATES ARCHITECTS

1 Greencoat Row London SW1P 1PQ UK  
mail@darlingassociates.net  
www.darlingassociates.net  
+44 20 7630 0500

### DRAWING STATUS

## Planning

### TITLE

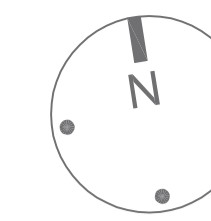
## Residential Building Proposed North Elevation

PROJECT  
Alma Road, Windsor

SCALE AT A1: 1:200  
SCALE AT A3: 1:400

JOB NO.	DRAWING	REV
15002	(03)-R-E-004	P1

© Darling Associates Ltd.

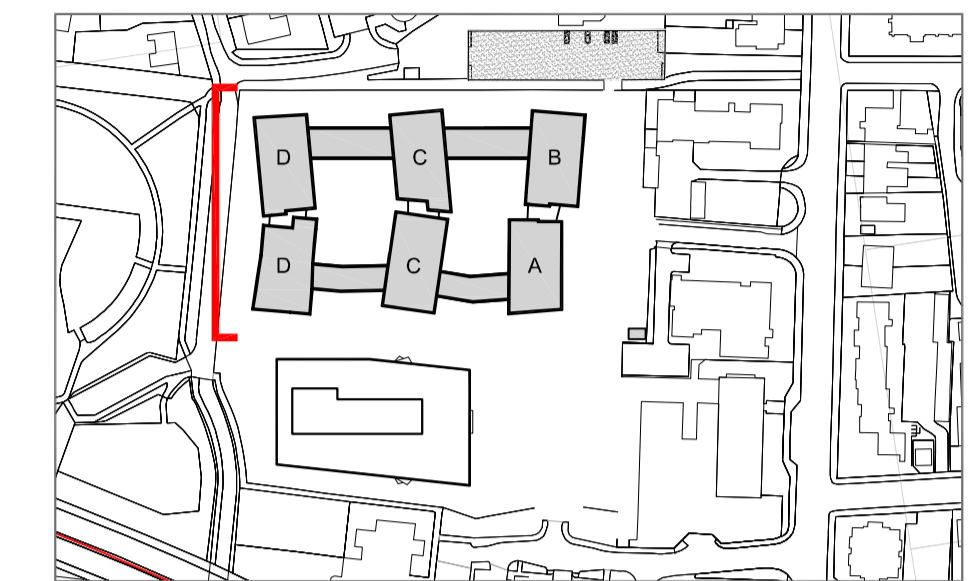


### General Notes

The drawing is copyright of Darling Associates. This drawing shall not be scaled. All dimensions are in mm unless otherwise stated. All dimensions shall be checked on site prior to commencing the works and any discrepancies to be reported to Darling Associates. All works shall conform to the current edition of the building regulations and other statutory requirements. All materials and workmanship shall conform with the relevant British Standard specifications and codes of practice. If this drawing forms part of an application for planning permission, it shall not be used for any other purpose without the express permission of Darling Associates. This drawing may incorporate information from other professionals. Darling Associates cannot accept responsibility for the integrity and accuracy of such information. Any clarification and/or additions that are required appertaining to such information should be sought from the relevant profession or their appointment representative.

Drawings, specifications and schedules are to be read in conjunction with the following where applicable: Employer's Requirements documents, Agreements to Lease, Structural Engineer's drawings and specifications, Civil Engineer's drawings and specifications, Survey Drawings, Party Wall Boundary Awards, Other specialist design consultant's requirements as appointed by the Main Contractor, Other specialist design sub-contractor's requirements as appointed by the Main Contractor.

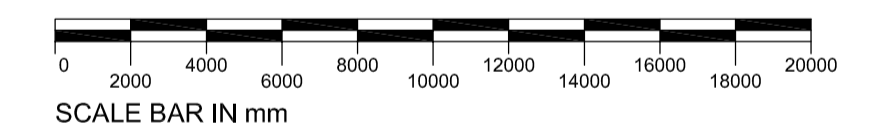
### Key Plan



### Notes

#### Legend

- ① Honey creamy coloured Istock brick
- ② Light brown anodised aluminium cladding
- ③ Bronze Anodised Aluminium cladding panel, window and door frames
- ④ Decorative Brick Istock Brick
- ⑤ PPC galvanised steel balustrades
- ⑥ Anodised aluminium window
- ⑦ Light brown anodised aluminium Door



REV	NOTES	DATE	BY	AUTH
PL	ISSUED FOR PLANNING	11/01/2018	JS	CD

## DARLING ASSOCIATES ARCHITECTS

1 Greencoat Row  
London SW1P 1PQ  
UK  
mail@darlingassociates.net  
www.darlingassociates.net  
+44 20 7630 0500

#### DRAWING STATUS

### Planning

#### TITLE

### Residential Building Proposed West Elevation

PROJECT  
Alma Road, Windsor

SCALE AT A1: 1:200  
SCALE AT A3: 1:400

JOB NO.	DRAWING	REV
15002	(03)-R-E-003	PL

© Darling Associates Ltd.









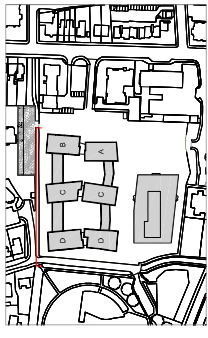


**General Notes**

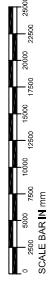
This drawing is the property of Darling Associates. It shall not be used for any other project without the written consent of Darling Associates. All dimensions are in millimeters unless otherwise stated. The client shall provide all necessary information and data to the architect. The architect shall be responsible for the accuracy of the information provided. The client shall be responsible for the accuracy of the information provided. The client shall be responsible for the accuracy of the information provided.

Drawings, specifications and schedules are to be read in conjunction with the following where drawings and specifications conflict. Call Engineer's drawings and specifications. Survey Control: British Standard BS 5400-10:2005. Other specifications and construction methods as specified by the Main Contractor. Other specifications and construction methods as specified by the Main Contractor.

**Key Plan**



**Notes**



P1	ISSUED FOR PLANNING	20 JUL 18	RS	CD
-	ISSUED FOR PLANNING	10.01.18	JK	CD
REV	NOTES	DATE	BY	AUTH

**DARLING ASSOCIATES ARCHITECTS**  
 1 Greencoat Row  
 London SW1P 1PQ  
 UK  
 mail@darlingassociates.net  
 www.darlingassociates.net  
 +44 20 7630 0500

<b>DRAWING STATUS</b>	
<b>Planning</b>	
<b>TITLE</b>	<b>North Elevation</b>
<b>PROJECT</b>	Alma Road, Windsor
<b>SCALE AT A4</b>	1:250
<b>SCALE AT A3</b>	1:500
<b>JOB NO.</b>	15002
<b>DRAWING</b>	(03)-S-E-004
<b>REV</b>	P1
© Darling Associates Ltd.	

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 2

<b>Application No.:</b>	17/03740/OUT
<b>Location:</b>	9 - 11 Imperial Road Windsor
<b>Proposal:</b>	Outline application (access, layout and scale) for the construction of 2 x four bedroom dwellings and 16 x two bedroom apartments, access road and cycle/bin store following demolition of 9-11 Imperial Road and 3-4 Almond Close.
<b>Applicant:</b>	Mr Collett
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Windsor Unparished/Clewer East Ward
<b>If you have a question about this report, please contact:</b> Sian Saadeh on 01682 796164 or at <a href="mailto:sian.saadeh@rbwm.gov.uk">sian.saadeh@rbwm.gov.uk</a>	

### 1. SUMMARY

- 1.1 This outline application proposes a very similar form of development to a scheme that was recently granted planning permission on appeal. The main difference is that the height of the proposed development in the current application has been reduced, thus reducing the impact of the scheme. As it would be unreasonable to draw different conclusions to that of the Appeal Inspector, particularly for a scheme of lesser impact, it is recommended that planning permission is granted subject to the conditions listed at the end of this report. Weighing up the conclusions drawn by the Inspector, the proposed development is considered to be acceptable in terms of its impact on the character of the area and the amenity of neighbouring occupiers. Its impact in terms of all other development management considerations are either acceptable or can be managed by conditions. The appearance and landscaping associated with the development would be considered in a future reserved matters application.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 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 is located on the corner of the roundabout of Imperial Road and Goslar Way. At present the frontage of the site onto the roundabout is elevated above an underpass and is screened by dense vegetation. The site is irregular in shape and comprises four residential dwellings and their gardens – 9 and 11 Imperial Road and 3 and 4 Almond Close - that are proposed to be demolished.
- 3.2 The surrounding area is predominantly suburban and residential in character comprising a variety of housing types. Bungalows are located to the rear of the application site within Almond Close and the streets beyond consist of largely 2 storey detached and semi-detached dwelling houses. There are a number of recent high-rise developments on the Goslar Way roundabout that vary in height from 2-5 storeys and include blocks of flats.

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

- 4.1 This planning application seeks outline consent for the erection of 2 x four bedroom houses and 16 x 2 bedroom apartments following the demolition of the existing buildings on site. Access, layout and scale are to be considered within the scope of this outline application although landscaping and appearance would be dealt with through a reserved matters application. Access is proposed to be taken off Almond Close. The proposed scheme is very similar in form to the development approved on appeal (ref. 17/01296/FULL) although the height of the proposed buildings has been reduced, for the most part, by one storey. The proposed buildings would range between 2 and 5 storeys in height. The dwelling houses are proposed to be semi-detached and two storeys in height with accommodation within the roofspace. The dwellings will be located to the west of 5 Almond Close and the apartment block will be located to the north of 13 Imperial Road. The apartment block is proposed to be between four and five storeys in height.
- 4.2 The indicative site layout shows landscaping and gardens addressing the roundabout and Imperial Road with a parking forecourt being located off Almond Close.
- 4.3 The table below provides a summary of the site's planning history:

Reference	Description	Decision & Date
16/03864/FULL	Demolition of 3 existing dwellings on the site and the erection of 2 x 4 bed dwellings 1 x 2 bed dwellings, 12 x 2 bed apartments and 2 x 1 bed apartments with vehicular access from Almond Close, and part demolition and enlargement of No. 3 Almond Close.	Refused 17th March 2017
17/01296/FULL	Demolition of 9-11 Imperial Road & 3-4 Almond Close. Construction of 2 houses and 16 x 2-bed apartments, along with access road and cycle/bin store	Refused 8 <sup>th</sup> July 2017 Appeal Allowed
18/00753/OUT	Outline application (access, layout & scale) for the construction of 2 x 2 bedroom dwellings, 10 x 2 bedroom apartments and 1 x 1 bedroom apartment following the demolition of 9-11 Imperial Road	Decision pending

## 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections 4, 6, 7 and 10

### Royal Borough Local Plan

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

Issue	Local Policy	Plan
Design in keeping with character of area	DG1	
Acceptable impact on appearance of area	DG1, H10, H11	
Acceptable impact when viewed from nearby occupiers	H10, H11	
Maintains acceptable level of privacy for nearby residents	H10, H11	
Maintains acceptable level of daylight and sunlight for nearby occupiers	H10, H11	
Acceptable impact on highway safety	T5	
Sufficient parking space available	P4	
Does not increase flood risk	F1	

Acceptable impact on trees important to the area	N6
--	----

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)

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

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Housing Density	HO5

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.

Significant weight is to be accorded to Borough Local Plan Submission Version policies SP2 and SP3 in this case. Lesser weight should be accorded to Borough Local Plan Submission Version policy NR1 and HO5 due to the extent and nature of objections raised to it by representations on the Borough Local Plan Submission Version. The above application is considered to comply with the relevant policies listed within the Development Plan and those Borough Local Plan Submission Version policies to which significant weight is to be accorded.

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**

5.3 Other Strategies or publications relevant to the proposal are:

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

More information on these documents can be found at:

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

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i) Principle of development;
- ii) Housing Mix and Tenure;
- iii) Impact on the character of the area;
- iv) Impact on the amenity of neighbouring residents;
- v) Amenity of future occupiers;
- vi) Highways Issue;
- vii) Flood risk & Surface Water Drainage;
- viii) Trees and Landscaping.
- ix) Environmental Health

### **i Principle of Development**

- 6.2 The site is located within the built-up area of Windsor and the site is already in residential use. The provision of additional residential units would comply with saved policy H6 of the Local Plan, which is supported by the NPPF and aims to significantly boost the supply of housing. The principle of the development proposed is therefore acceptable subject to all the development management considerations listed below being satisfactorily addressed.

### **ii Housing Mix & Tenure**

- 6.3 Policy H8 supports proposals that contribute towards improving the range of housing accommodation in the Borough, including dwellings for small households. The mix of different sized units proposed within this application is considered acceptable.
- 6.4 The proposal results in a net increase of 14 units and the site area is under 0.5 ha. The development would be under the threshold whereby provision of affordable housing as required by Local Plan policy H3.

### **iii Impact on Character of the Area**

- 6.5 Saved Policy H10 of the Local Plan relates to housing layout and design. High standards of design and landscaping will be required where possible, to enhance the existing environment. The policy refers to the use of a variety of building types, materials, means of enclosure, surface treatment and landscaping to create visual interest. Policy H11 states that planning permission will not be granted for schemes that introduce a scale or density that would be incompatible with or cause damage to the character and amenity of an area.
- 6.6 Appearance is not to be considered as part of this application but the scheme's impact on the character of the area when considering its scale and layout should be considered and fully assessed. The conclusions drawn have been influenced by the recent appeal decision where permission was granted.
- 6.7 The layout of the proposed development is very similar to the appeal scheme. The buildings are in the same location and are of similar form although they have been reduced in height. The car parking is in a broadly similar location although the location of one of the cycle stores has been amended to be located further into the site.



- 6.8 The inspector determining the recent appeal concluded that the proposals would reflect the existing pattern of development around the Goslar Way roundabout and noted that a successful transition with the surrounding residential area would be achieved whereby no harm would arise to views of the site from surrounding roads. Given that this scheme is nearly identical, albeit with reduced height, it would be unreasonable to reach a different conclusion. The impact of the proposed development upon the character of the area is thus considered to be acceptable and in accordance with Saved Local Plan policies DG1, H10 and H11 as well as emerging Borough Local Plan submission version policies SP2 and SP3.

#### **iv Impact on the amenity of surrounding residents**

- 6.9 Considering the proposed development's impact on the occupiers of 5 Almond Close, whilst there would be some overlooking of the garden area this would be from a significant distance and at such an angle whereby there would be no material harm to the living conditions of the occupants of this building. The proposed building is also a sufficient distance from numbers 1 and 2 Almond Close whereby there would be no harmful loss of privacy either to habitable rooms or their respective gardens. Subject to a condition to ensure that obscure glazing is used in windows in the elevation facing 13 Imperial Road the development would not lead to any material loss of privacy when considering the occupiers of this building.
- 6.10 As identified by the Inspector determining the recent appeal, the site's surroundings are already subject to a degree of mutual overlooking between residential properties and the bulk of the development would be sufficiently set back from neighbouring properties whereby any loss of privacy, over and above the current arrangement, would not amount to material harm to the living conditions of neighbouring occupiers.
- 6.11 The proposed development is laid out in such a way where it would not lead to any loss of light, overshadowing or overbearing impact that would warrant the refusal of this planning application.
- 6.12 When considering the potential for noise and disturbance arising from the more intensive use of the site, the Inspector concluded that any noise from cars and pedestrians would be intermittent and would be experienced in the context of the existing road noise arising from Imperial Road and the busy roundabout. Light pollution from headlights would also be intermittent and is not unusual in a built-up area. There is no reason why a different conclusion would be arrived at in the determination of the current application and so the intensification of activity would not warrant the refusal of this application in this instance.
- 6.13 A Noise Assessment has been submitted in support of this planning application. Subject to a condition to secure acoustic fencing along noise sensitive boundaries there is no reason why the proposed development should be harmful to the amenities of existing or future occupiers when considering the potential for noise and disturbance arising from the adjacent roads.

#### **v Amenity of future occupiers**

- 6.14 No floorplans have been provided in support of the current application as the appearance will be determined in a future reserved matters application. The Design & Access Statement however indicates that the proposed dwellings will be of reasonable size and, at this stage, an acceptable arrangement could be achieved. The scheme also offers the potential for private and communal amenity space to be provided.
- 6.15 In the context of previous applications on the site, there was some concern in respect of the flats on the north and west elevation, and potential for noise disturbance from the road, as several of the bedroom windows are located on elevations facing the roads. The internal layout of the flats can be assessed in the context of a future application to ensure that there would be no harmful internal and external noise disturbance would arise.

- 6.16 In conclusion when considering the proposed development's impact on the amenity of future occupiers and their quality of life, the development proposals are in accordance with paragraph 17 bullet 4 of the NPPF.

#### **vi Highways Issues**

- 6.17 Imperial Road is classified as the B3173 and Almond Close is an adopted residential cul de sac. Almond Close currently serves circa 13 residential units, is street lit and comprises a verge along both sides of the carriageway. There are no footways along Almond Close. The site currently benefits from having a vehicular access off Imperial Road and Almond Close. The plans submitted show that the access off Imperial Road will be stopped up and the new development will be served via Almond Close.
- 6.18 The applicant should ensure that the proposed hedge along the south boundary from at least 5m from Almond Close is of a height of no more than 600mm from the carriageway level. This is to ensure vehicles can see and be seen manoeuvring from the parking bays off of Almond Close.

#### *Parking Provision/requirement*

- 6.19 The 18 residential units are provided with 25 car parking spaces; 1.25 spaces for each apartment and 2 spaces for each of the 4 bed houses. As per the Inspectors conclusions in the context of the recent appeal this is considered to be acceptable.

#### *Traffic Generation*

- 6.20 The proposed development as a whole has the potential to generate 80 to 160 vehicle movements per day. There are no defects in the surrounding highway network to suggest that the residual increase in vehicular activity, resulting from the development would lead to significant harm to road safety.

#### *Cycle & Refuse Provision*

- 6.21 Cycle storage is shown on the submitted drawings. More details are required to ensure that the storage meets the Council's requirements yet this can be secured by way of condition. Refuse store arrangements are also unknown although once again this can be secured by condition. The layout of the site would be able to accommodate adequate cycle and refuse storage.

#### *Highways Conclusion*

- 6.22 Being mindful of the conclusions of the recent appeal, there are no objections to the development proposals on highways grounds subject to the use of appropriate conditions.

#### **vii Flood Risk and Surface water drainage**

- 6.23 The site is located in Flood Zone 1. A drainage strategy has been provided although the LLFA require additional details in respect of infiltration techniques and attenuation storage volumes. In the context of the recent appeal, the Inspector was satisfied that a surface water drainage scheme could appropriately be dealt with by a condition. There is no reason to draw a different conclusion in the context of the current planning application.

#### **viii Trees and Landscaping**

- 6.24 Whilst the Trees & Landscape Officer has expressed reservations as to whether meaningful levels of structural planting can be accommodate on the site, being mindful that landscaping is a reserved matter and the Inspector considering the earlier appeal raised no concern in respect of this issue it would be unreasonable to recommend refusal on this basis. Subject to details being

considered in a future reserved matters application, the proposals are not considered to be in conflict Saved Local Plan policies H10 and N6.

## ix Environmental Health

- 6.25 The Environmental Health Officer raises no objection to the development proposals subject to the use of a condition to ensure compliance with the recommendations contained within the submitted noise assessment and informatives in respect of dust and smoke.

## x Other Material Considerations

### Housing Land Supply

- 6.26 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Following the Regulation 19 consultation on the Submission Version of the Local Plan, the Council formally submitted in January 2018. The Borough Local Plan 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.

## 7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 7.1 The Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule. Given that this application is outline the CIL charge cannot be determined at this stage. The liability would be calculated at the Reserved Matters application stage. It would however be chargeable at a rate of £240 per square metre.

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

- 8.1 41 occupiers were notified directly of the application. The planning officer posted a notice advertising the application at the site on 12<sup>th</sup> December 2017 and the application was advertised in the Maidenhead & Windsor Advertiser on 14<sup>th</sup> December 2017.

- 8.2 As a result of the public consultation 15 letters were received objecting to the proposed development. The nature of the concerns raised and the number of times an issue was mentioned is summarised below:

Comment/Issue/concern		Where in the report this is considered
1.	Highway/pedestrian safety 7	6.17-6.22
2.	Congestion/increased traffic 10	6.17-6.22
3.	Building Height/scale/layout/density 10	6.5-6.8
4.	Construction disturbance 2	Not a planning consideration
5.	Privacy 7	6.9-6.13
6.	Loss of light/overshadowing 2	6.9-6.13
8	Inadequate car parking 6	6.17-6.22
9.	Design/appearance/character 10	6.5-6.8 This will be fully assessed in the context of a reserved matters application
10.	Natural disaster risk/flooding 3	6.23
11.	Noise/intensification of activity 3	6.12
12.	Duplicate applications waste of money/resources 3	The LPA is obliged to determine submitted applications. Applicant pays a fee for each application to be considered

13.	Air Quality/pollution 2	No Air Quality Assessment was required by Environmental Health. The level of increased traffic would not give rise to a material increase in pollution.
-----	-------------------------	---

## Consultees

Consultee	Comment	Where in the report this is considered
Highways	No objection subject to conditions	6.17-6.22
Trees & Landscape	Object	6.24
LLFA	Requests extra information	6.23
Environmental Protection	No objection subject to conditions/informatives	6.25
Access Advisory Committee	Insufficient info to assess accessibility for people with disabilities	This level of information would be provided at a reserved matters application stage and will in part be considered by building regulations
Windsor & Eton Society	Overdevelopment Concern building line brought forwards  Overbearing Little opportunity for planting Objects to design  Parking inadequate	6.5-6.8 Established building line is broadly adhered to 6.9-6.13 6.24 Appearance to be dealt with as a Reserved Matter 6.17-6.22

## 9. APPENDICES TO THIS REPORT

- Appendix A – Location & Site Plan
- Appendix B – Front & side elevation
- Appendix C – South & east side elevation

## 10. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 An application for the approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission  
Reason: To accord with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).
- 2 Details of the appearance and landscaping (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.  
Reason: To accord with the provisions of the Town and Country Planning (General Development Procedure) Order 1995.
- 3 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. These shall include:- Results of intrusive ground investigations and infiltration rates determined with reference to BRE Digest 365 demonstrating whether infiltration to ground is practical.- Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels and relevant construction details.- Supporting calculations confirming pre-development and post development runoff rates and any attenuation storage volume to be provided.- Agreement in principle from the sewerage undertaker, if connection to the public surface water drainage system is necessary.- Details of the

maintenance arrangements relating to the proposed surface water drainage system. No part of the development hereby approved shall be occupied until the surface water drainage scheme has been implemented in accordance with the details approved under the terms of this condition. The surface water drainage system shall be maintained in accordance with the approved details thereafter.

Reason: To ensure the development does not increase the risk of flooding onsite or elsewhere in the locality. Relevant policy: Paragraph 103 of the NPPF.

- 4 Prior to the commencement of any works of demolition or construction a construction 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 development shall be carried out in accordance with the plan approved as part of this condition at all times, for the duration of the works necessary to implement this planning permission.  
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Saved Local Plan policy T5.
- 5 No part of the development hereby approved shall be occupied until a scheme of works providing for the stopping up of existing access to the site, together with the reinstatement of relevant footways and verges has been submitted to and approved in writing by the Local Planning Authorities. No part of the development shall be occupied until the works have been carried out in full in accordance with the details approved under the terms of this condition.  
Reason: In the interests of highway safety and of the amenities of the area. Relevant Policies - Saved Local Plan T5, DG1.
- 6 No part of the development shall be occupied until the access to the site has been constructed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be retained in accordance with the approved details.  
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Saved Local Plan T5, DG1
- 7 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. Relevant Policies - Local Plan P4, DG1.
- 8 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
- 9 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.
- 10 The buildings shall not be occupied until the windows a) on the south elevation of the apartment building, facing 13 Imperial Way (Units 1, 2 and 3), and b) on the eastern elevation of the dwellinghouses facing no.5 Almond Close have been fitted with obscured glazing and no part of

those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Reason: To prevent overlooking and loss of privacy to neighbouring occupiers. Relevant Policies - Saved Local Plan H14.

- 11 No development above ground floor level shall take place until further details of noise mitigation measures as recommended in the Noise Impact Assessment provided by Venta Acoustics have been submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be occupied until the noise mitigation measures approved under the terms of this condition have been installed, and once installed shall be retained thereafter.

Reason: To ensure a satisfactory level of amenity for all future residents of the development. Relevant Policies - Saved Local Plan NAP2.

## **Informatives**

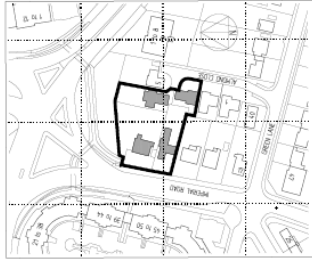
- 1 Dust Control Informative (Non-Standard)The applicant and their contractor should take all practicable steps to minimise dust deposition, which is a major cause of nuisance to residents living near to construction and demolition sites. The applicant and their contractor should ensure that all loose materials are covered up or damped down by a suitable water device, to ensure that all cutting/breaking is appropriately damped down, to ensure that the haul route is paved or tarmac before works commence, is regularly swept and damped down, and to ensure the site is appropriately screened to prevent dust nuisance to neighbouring properties.The applicant is advised to follow guidance with respect to dust control:London working group on Air Pollution Planning and the Environment (APPLE): London Code of Practice, Part 1: The Control of Dust from Construction; and the Building Research Establishment: Control of dust from construction and demolition activities  
Smoke Control Informative (Non-Standard)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 683538 and follow good practice.The applicant should be aware the permitted hours of construction working in the Authority are as follows:

Monday-Friday	08.00-18.00	Saturday	08.00-13.00
---------------	-------------	----------	-------------

No working on Sundays or Bank Holidays.
- 2 Damage to footways and verges - The attention of the applicant is drawn to the Berkshire Act 1986, Part II, and Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway or grass verge arising during building operations.Damage to the Highway - 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.No Equipment Materials on Public Highway - No builder's 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.

# Appendix A

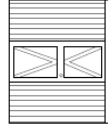
## Site and Location Plan



Site Location Plan 1 : 1250



SECURE STORAGE ROOM ELEVATION SCALE 1:50



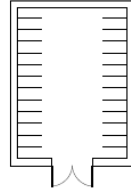
SECURE STORAGE ROOM ELEVATION SCALE 1:50



SECURE STORAGE ROOM ELEVATION SCALE 1:50



SECURE STORAGE ROOM ELEVATION SCALE 1:50



SECURE STORAGE ROOM SCALE 1:50

PROPOSED REDEVELOPMENT OF  
3-4 ALMOND LIL & 9-11 IMPERIAL RD  
WINDSOR BERRS SA4 5AT

For :  
UK Lead Services

**SCHEME PROPOSALS**  
Location & Site Plan

SCALE: DATE: REF:

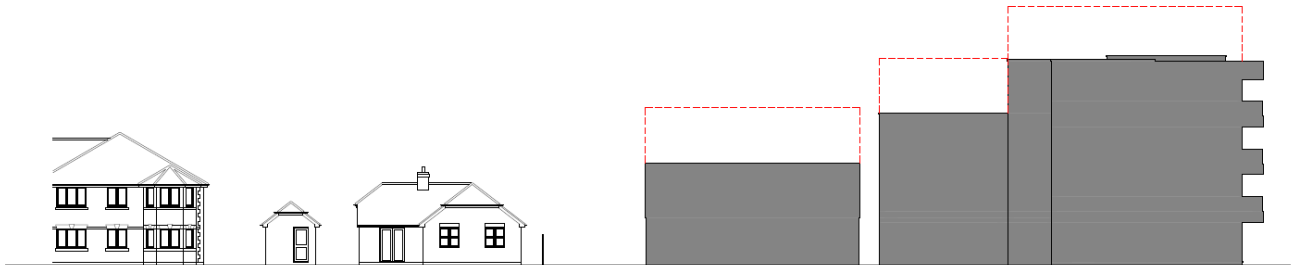
1: 200 Mar 2017 E-070-20

Sheet no.

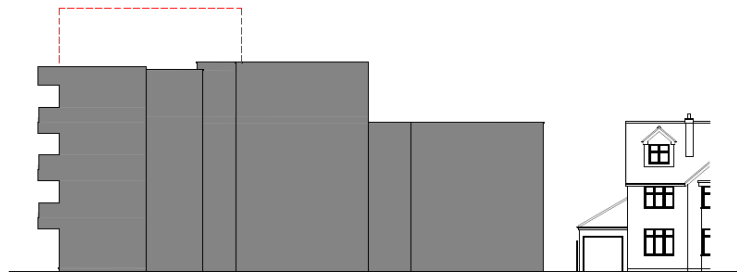


Appendix B

Front and side elevations



FRONT ELEVATION (NORTH)  
SCALE 1:100 @ A1

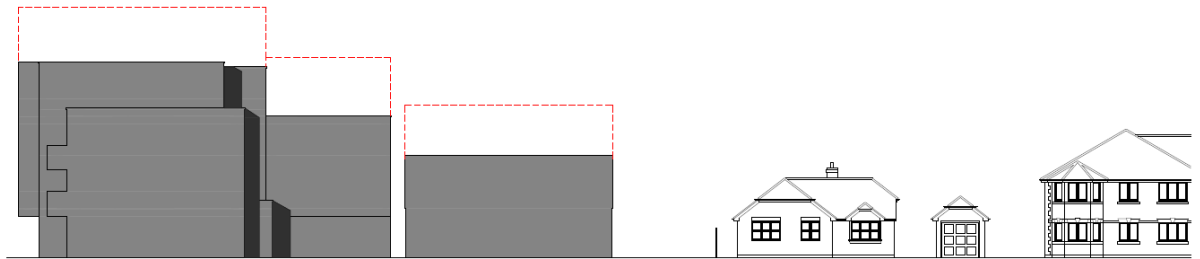


SIDE ELEVATION (WEST)  
SCALE 1:100 @ A1



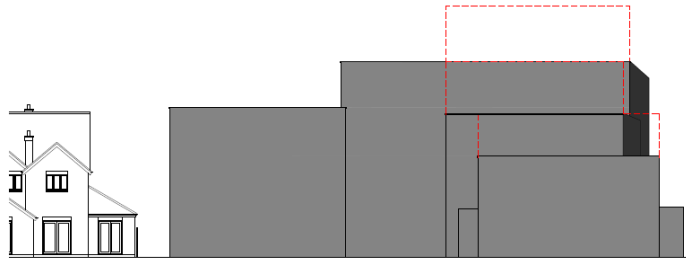
# Appendix C

## Rear and side elevations



REAR ELEVATION (SOUTH)  
SCALE 1:100 @ A1

----- Height reductions  
with respect to previous  
refused scheme 17/01296/FULL



SIDE ELEVATION (EAST)  
SCALE 1:100 @ A1

----- Height reductions  
with respect to previous  
refused scheme 17/01296/FULL

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 3

<b>Application No.:</b>	18/00753/OUT
<b>Location:</b>	9 - 11 Imperial Road Windsor
<b>Proposal:</b>	Outline application (access, layout and scale) for the construction of 2 x two bedroom dwellings, 10 x two bedroom apartments and 1 x one bedroom apartment following the demolition of 9-11 Imperial Road.
<b>Applicant:</b>	Mr Collett
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Windsor Unparished/Clewer East Ward

**If you have a question about this report, please contact:** Sian Saadeh on 01682 796164 or at [sian.saadeh@rbwm.gov.uk](mailto:sian.saadeh@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 This outline application is for part of the site where a larger development has recently been granted planning permission on appeal. This application is for a smaller development on the site of only 9-11 Imperial Road. Taking into account the conclusions of the Appeal Inspector for the larger development and the consideration of this proposal, it is recommended that planning permission is granted subject to the conditions listed at the end of this report. Weighing up the conclusions drawn by the Inspector, the proposed development is considered to be acceptable in terms of its impact on the character of the area and the amenity of neighbouring occupiers. Its impact in terms of all other development management considerations are either acceptable or can be managed by conditions. The appearance and landscaping associated with the development would be considered in a future reserved matters application.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 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 is located on the corner of the roundabout of Imperial Road and Goslar Way. At present the frontage of the site onto the roundabout is elevated above an underpass and is screened by dense vegetation. The site is irregular in shape and comprises two residential dwellings and their gardens – 9 and 11 Imperial Road - that are proposed to be demolished.
- 3.2 The surrounding area is predominantly suburban and residential in character comprising a variety of housing types. Bungalows are located to the rear of the application site within Almond Close and the streets beyond consist of largely 2 storey detached and semi-detached dwelling houses. There are a number of recent high-rise developments on the Goslar Way roundabout that vary in height from 2-5 storeys and include blocks of flats.

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

- 4.1 This planning application seeks outline consent for the erection of 2 x two bedroom houses and 10 x one/two bedroom apartments following the demolition of the existing buildings on site. Access, layout and scale are to be considered within the scope of this outline application although landscaping and appearance would be dealt with through a reserved matters application. Access is proposed to be taken off Imperial Road. The proposed buildings would

range between 1.5 and 3 storeys in height. The dwelling houses would be attached to the main block which would provide the apartments. The block would be located to the west of 4 Almond Close and to the north of 13 Imperial Road.

4.2 The indicative site layout shows landscaping and gardens addressing the roundabout and Imperial Road with a parking forecourt being located to the southern end of the site

4.3 The table below provides a summary of the site's planning history:

Reference	Description	Decision & Date
16/03864/FULL	Demolition of 3 existing dwellings on the site and the erection of 2 x 4 bed dwellings 1 x 2 bed dwellings, 12 x 2 bed apartments and 2 x 1 bed apartments with vehicular access from Almond Close, and part demolition and enlargement of No. 3 Almond Close.	Refused 17th March 2017
17/01296/FULL	Demolition of 9-11 Imperial Road & 3-4 Almond Close. Construction of 2 houses and 16 x 2-bed apartments, along with access road and cycle/bin store	Refused 8 <sup>th</sup> July 2017 Appeal Allowed
17/03740/OUT	Outline application (access, layout and scale) for the construction of 2 x four bedroom dwellings and 16 x two bedroom apartments, access road and cycle/bin store following demolition of 9-11 Imperial Road and 3-4 Almond Close.	Decision pending

## 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 National Planning Policy Framework Sections 4, 6, 7 and 10

### Royal Borough Local Plan

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

Issue	Local Policy	Plan
Design in keeping with character of area	DG1	
Acceptable impact on appearance of area	DG1, H10, H11	
Acceptable impact when viewed from nearby occupiers	H10, H11	
Maintains acceptable level of privacy for nearby residents	H10, H11	
Maintains acceptable level of daylight and sunlight for nearby occupiers	H10, H11	
Acceptable impact on highway safety	T5	
Sufficient parking space available	P4	
Does not increase flood risk	F1	
Acceptable impact on trees important to the area	N6	

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)

**Borough Local Plan: Submission Version**

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Housing Density	HO5

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.

Significant weight is to be accorded to Borough Local Plan Submission Version policies SP2 and SP3 in this case. Lesser weight should be accorded to Borough Local Plan Submission Version policy NR1 and HO5 due to the extent and nature of objections raised to it by representations on the Borough Local Plan Submission Version. The above application is considered to comply with the relevant policies listed within the Development Plan and those Borough Local Plan Submission Version policies to which significant weight is to be accorded.

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**

5.3 Other Strategies or publications relevant to the proposal are:

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

More information on these documents can be found at:

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

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i) Principle of development;
- ii) Housing Mix and Tenure;
- iii) Impact on the character of the area;
- iv) Impact on the amenity of neighbouring residents;
- v) Amenity of future occupiers;

- vi) Highways Issue;
- vii) Flood risk & Surface Water Drainage;
- viii) Trees and Landscaping.
- ix) Environmental Health

### **i Principle of Development**

- 6.2 The site is located within the built-up area of Windsor and the site is already in residential use. The provision of additional residential units would comply with saved policy H6 of the Local Plan, which is supported by the NPPF and aims to significantly boost the supply of housing. The principle of the development proposed is therefore acceptable subject to all the development management considerations listed below being satisfactorily addressed.

### **ii Housing Mix & Tenure**

- 6.3 Policy H8 supports proposals that contribute towards improving the range of housing accommodation in the Borough, including dwellings for small households. The mix of different sized units proposed within this application is considered acceptable.
- 6.4 The proposal results in a net increase of 10 units and the site area is under 0.5 ha. The development would be under the threshold whereby provision of affordable housing as required by Local Plan policy H3.

### **iii Impact on Character of the Area**

- 6.5 Saved Policy H10 of the Local Plan relates to housing layout and design. High standards of design and landscaping will be required where possible, to enhance the existing environment. The policy refers to the use of a variety of building types, materials, means of enclosure, surface treatment and landscaping to create visual interest. Policy H11 states that planning permission will not be granted for schemes that introduce a scale or density that would be incompatible with or cause damage to the character and amenity of an area.
- 6.6 Appearance is not to be considered as part of this application but the scheme's impact on the character of the area when considering its scale and layout should be considered and fully assessed. The conclusions drawn have been influenced by the recent appeal decision where permission was granted.
- 6.7 The layout of the proposed development is similar to the appeal scheme, albeit on a reduced site. The buildings are in largely same location and are of similar form although they have been reduced in height. The car parking is relocated to take account of the access being proposed from Imperial Road but the overall layout of a parking court is consistent with the appeal scheme.
- 6.8 The inspector determining the recent appeal concluded that those proposals would reflect the existing pattern of development around the Goslar Way roundabout and noted that a successful transition with the surrounding residential area would be achieved whereby no harm would arise to views of the site from surrounding roads. Given that the differences between that scheme and these have reduced the scale of development, it would be unreasonable to reach a different conclusion. The impact of the proposed development upon the character of the area is thus considered to be acceptable and in accordance with Saved Local Plan policies DG1, H10 and H11 as well as emerging Borough Local Plan submission version policies SP2 and SP3.

### **iv Impact on the amenity of surrounding residents**

- 6.9 Considering the proposed development's impact on the occupiers of Almond Close, whilst there would be some overlooking of the garden areas closest to the proposed building this would be

from a significant distance and at such an angle whereby there would be no material harm to the living conditions of the occupants of this building. Final details of the proposed internal layouts would form part of the design reserved matters application. However, subject to conditions ensuring that all windows in the side elevations closest to the neighbouring properties are obscure glazed and fixed shut (except for a top opening) would ensure no harmful loss of privacy to neighbouring properties on Almond Close or Imperial Road.

- 6.10 As identified by the Inspector determining the recent appeal, the site's surroundings are already subject to a degree of mutual overlooking between residential properties and the bulk of the development would be sufficiently set back from neighbouring properties whereby any loss of privacy, over and above the current arrangement, would not amount to material harm to the living conditions of neighbouring occupiers.
- 6.11 Given the reduced site compared to the appeal scheme, a significant difference is the relationship with 3 and 4 Almond Close. The scale of the proposed development reduces significantly close to this boundary so that it is comparable with the existing buildings on neighbouring sites. Whilst there would be a change to the outlook from these properties, given the position of the buildings relative to one another it is not considered that the proposal would result in a materially harmful loss of light or sense of enclosure. The proposed development is sufficiently distant from other properties to ensure it would not lead to any loss of light, overshadowing or overbearing impact.
- 6.12 When considering the potential for noise and disturbance arising from the more intensive use of the site, the Inspector concluded that any noise from cars and pedestrians would be intermittent and would be experienced in the context of the existing road noise arising from Imperial Road and the busy roundabout. Light pollution from headlights would also be intermittent and is not unusual in a built-up area. There is no reason why a different conclusion would be arrived at in the determination of the current application and so the intensification of activity would not warrant the refusal of this application in this instance.
- 6.13 A Noise Assessment has been submitted in support of this planning application. Subject to a condition to secure acoustic fencing along noise sensitive boundaries there is no reason why the proposed development should be harmful to the amenities of existing or future occupiers when considering the potential for noise and disturbance arising from the adjacent roads.

#### **v Amenity of future occupiers**

- 6.14 No floorplans have been provided in support of the current application as the appearance will be determined in a future reserved matters application. The Design & Access Statement however indicates that the proposed dwellings will be of reasonable size and, at this stage, an acceptable arrangement could be achieved. The scheme also offers the potential for private and communal amenity space to be provided.
- 6.15 In the context of previous applications on the site, there was some concern in respect of the flats on the north and west elevation, and potential for noise disturbance from the road, as several of the bedroom windows are located on elevations facing the roads. The internal layout of the flats can be assessed in the context of a future application to ensure that there would be no harmful internal and external noise disturbance would arise.
- 6.16 In conclusion when considering the proposed development's impact on the amenity of future occupiers and their quality of life, the development proposals are in accordance with paragraph 17 bullet 4 of the NPPF.

#### **vi Highways Issues**

- 6.17 Imperial Road is classified as the B3173. The site currently benefits from having a vehicular access off Imperial Road and Almond Close. The plans submitted show that the existing northern access from Imperial Road will be stopped up and the southern one retained and widened.

- 6.18 Concerns were raised regarding the additional traffic using this access and the potential impact it would have on Imperial Road and the surrounding highway network. Further supporting information was submitted by the applicant and reviewed by the Highway Authority. This has demonstrated that the access could operate safely provided visibility splays are maintained. A condition is recommended to ensure that visibility is maintained.

#### *Parking Provision/requirement*

- 6.19 The 12 residential units are provided with 16 car parking spaces; 1.3 spaces per unit. This is an under provision for policy requirements for a development. However, give the Inspectors conclusions on comparable levels of parking for the recent appeal scheme, this is considered to be acceptable.

#### *Traffic Generation*

- 6.20 The proposed development as a whole has the potential to generate 50 to 100 vehicle movements per day. As noted above, further information (a road safety audit) has been submitted by the applicant which demonstrates this level of traffic could be accommodated safely on the highway and the access.

#### *Cycle & Refuse Provision*

- 6.21 Cycle storage details are required to ensure that the storage meets the Council's requirements yet this can be secured by way of condition. Refuse store arrangements are also unknown although once again this can be secured by condition. The layout of the site would be able to accommodate adequate cycle and refuse storage.

#### *Highways Conclusion*

- 6.22 Being mindful of the conclusions of the recent appeal and evidence submitted in relation to this application, there are no objections to the development proposals on highways grounds subject to the use of appropriate conditions.

### **vii Flood Risk and Surface water drainage**

- 6.23 The site is located in Flood Zone 1. A drainage strategy has been provided although the LLFA require additional details in respect of infiltration techniques and attenuation storage volumes. In the context of the recent appeal, the Inspector was satisfied that a surface water drainage scheme could appropriately be dealt with by a condition. There is no reason to draw a different conclusion in the context of the current planning application.

### **viii Trees and Landscaping**

- 6.24 Whilst the Trees & Landscape Officer has expressed reservations as to whether meaningful levels of structural planting can be accommodate on the site, being mindful that landscaping is a reserved matter and the Inspector considering the earlier appeal raised no concern in respect of this issue it would be unreasonable to recommend refusal on this basis. Subject to details being considered in a future reserved matters application, the proposals are not considered to be in conflict Saved Local Plan policies H10 and N6.

### **ix Environmental Health**

- 6.25 The Environmental Health Officer raises no objection to the development proposals subject to the use of a condition to ensure compliance with the recommendations contained within the submitted noise assessment and informatives in respect of dust and smoke.

### **x Other Material Considerations**

## Housing Land Supply

- 6.26 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Following the Regulation 19 consultation on the Submission Version of the Local Plan, the Council formally submitted in January 2018. The Borough Local Plan 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.

## 7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 7.1 The Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule. Given that this application is outline the CIL charge cannot be determined at this stage. The liability would be calculated at the Reserved Matters application stage. It would however be chargeable at a rate of £240 per square metre.

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

- 8.1 39 occupiers were notified directly of the application. The planning officer posted a notice advertising the application at the site and the application was advertised in the Maidenhead & Windsor Advertiser on 29<sup>th</sup> March 2018.
- 8.2 As a result of the public consultation 7 letters were received objecting to the proposed development. The nature of the concerns raised is summarised below:

Comment/Issue/concern		Where in the report this is considered
1.	Highway/pedestrian safety	6.17-6.22
2.	Congestion/increased traffic	6.17-6.22
3.	Building Height/scale/layout/density	6.5-6.8
4.	Construction disturbance	Not a planning consideration
5.	Privacy	6.9-6.13
6.	Loss of light/overshadowing	6.9-6.13
8	Inadequate car parking	6.17-6.22
9.	Design/appearance/character	6.5-6.8 This will be fully assessed in the context of a reserved matters application
10.	Natural disaster risk/flooding	6.23
11.	Noise/intensification of activity	6.12
12.	Duplicate applications waste of money/resources	The LPA is obliged to determine submitted applications. Applicant pays a fee for each application to be considered
13.	Air Quality/pollution	No Air Quality Assessment was required by Environmental Health. The level of increased traffic would not give rise to a material increase in pollution.

### Consultees

Consultee	Comment	Where in the report this is considered
Highways	No objection subject to conditions	6.17-6.22
Trees &	No objection subject to conditions	6.24



Landscape		
LLFA	No objection subject to conditions	6.23
Environmental Protection	No objection subject to conditions/informatives	6.25
Access Advisory Committee	Insufficient info to assess accessibility for people with disabilities	This level of information would be provided at a reserved matters application stage and will in part be considered by building regulations

## 9. APPENDICES TO THIS REPORT

- Appendix A – Location & Site Plan
- Appendix B – Front & side elevation
- Appendix C – South & east side elevation

## 10. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 An application for the approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission  
Reason: To accord with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).
- 2 Details of the appearance and landscaping (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.  
Reason: To accord with the provisions of the Town and Country Planning (General Development Procedure) Order 1995.
- 3 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. These shall include:- Results of intrusive ground investigations and infiltration rates determined with reference to BRE Digest 365 demonstrating whether infiltration to ground is practical.- Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels and relevant construction details.- Supporting calculations confirming pre-development and post development runoff rates and any attenuation storage volume to be provided.- Agreement in principle from the sewerage undertaker, if connection to the public surface water drainage system is necessary.- Details of the maintenance arrangements relating to the proposed surface water drainage system. No part of the development hereby approved shall be occupied until the surface water drainage scheme has been implemented in accordance with the details approved under the terms of this condition. The surface water drainage system shall be maintained in accordance with the approved details thereafter.  
Reason: To ensure the development does not increase the risk of flooding onsite or elsewhere in the locality .Relevant policy: Paragraph 103 of the NPPF.
- 4 Prior to the commencement of any works of demolition or construction a construction 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 development shall be carried out in accordance with the plan approved as part of this condition at all times, for the duration of the works necessary to implement this planning permission.  
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Saved Local Plan policy T5.
- 5 No part of the development hereby approved shall be occupied until a scheme of works providing

for the stopping up of existing northern access to the site, together with the reinstatement of relevant footways and verges has been submitted to and approved in writing by the Local Planning Authorities. No part of the development shall be occupied until the works have been carried out in full in accordance with the details approved under the terms of this condition.

Reason: In the interests of highway safety and of the amenities of the area. Relevant Policies - Saved Local Plan T5, DG1.

- 6 No part of the development shall be occupied until the access to the site has been constructed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be retained in accordance with the approved details.

Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Saved Local Plan T5, DG1

- 7 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. Relevant Policies - Local Plan P4, DG1.

- 8 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

- 9 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.

- 10 The buildings shall not be occupied until the windows on the side elevation of the building facing Almond Close and the side elevation of the building facing 13 Imperial Road have been fitted with obscured glazing and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The windows shall be retained as such thereafter.

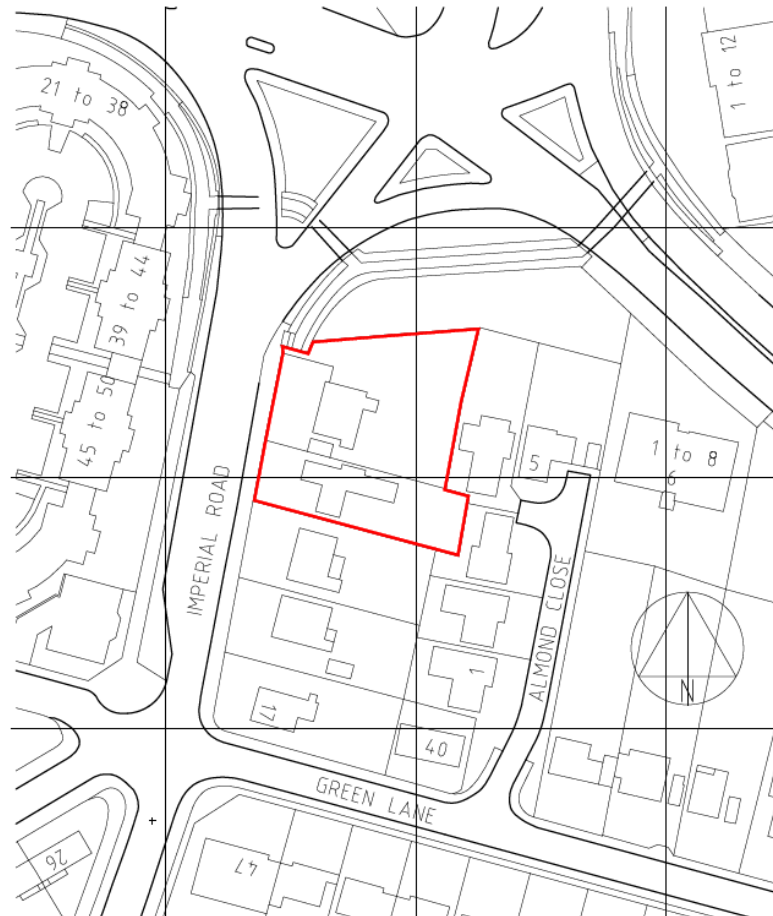
Reason: To prevent overlooking and loss of privacy to neighbouring occupiers. Relevant Policies - Saved Local Plan H14.

- 11 No development above ground floor level shall take place until further details of noise mitigation measures as recommended in the Noise Impact Assessment provided by Venta Acoustics have been submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be occupied until the noise mitigation measures approved under the terms of this condition have been installed, and once installed shall be retained thereafter.

Reason: To ensure a satisfactory level of amenity for all future residents of the development. Relevant Policies - Saved Local Plan NAP2.

# Appendix A

## Location and Site Plans

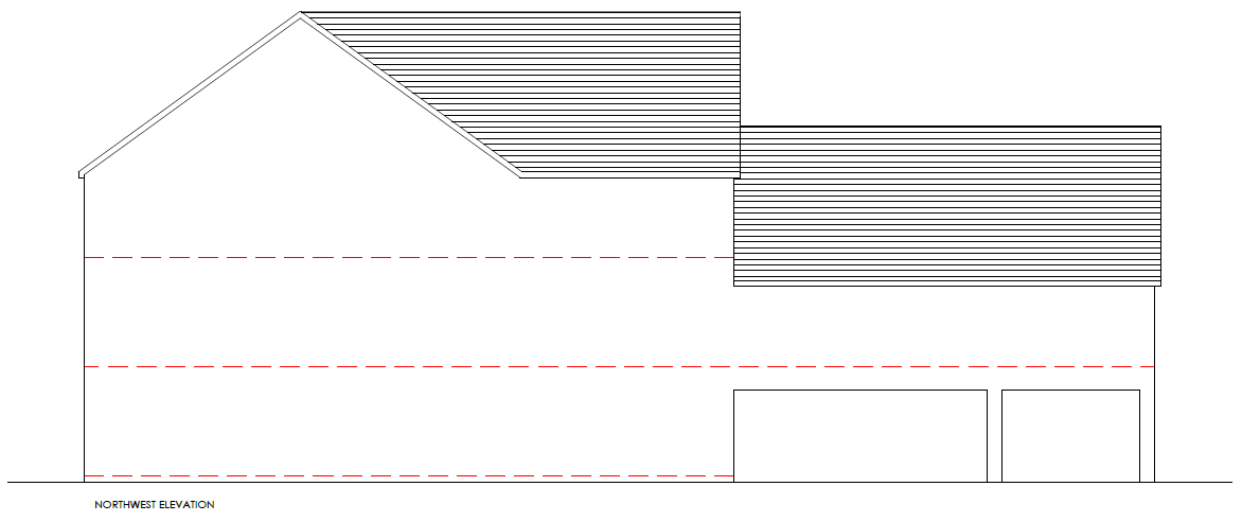
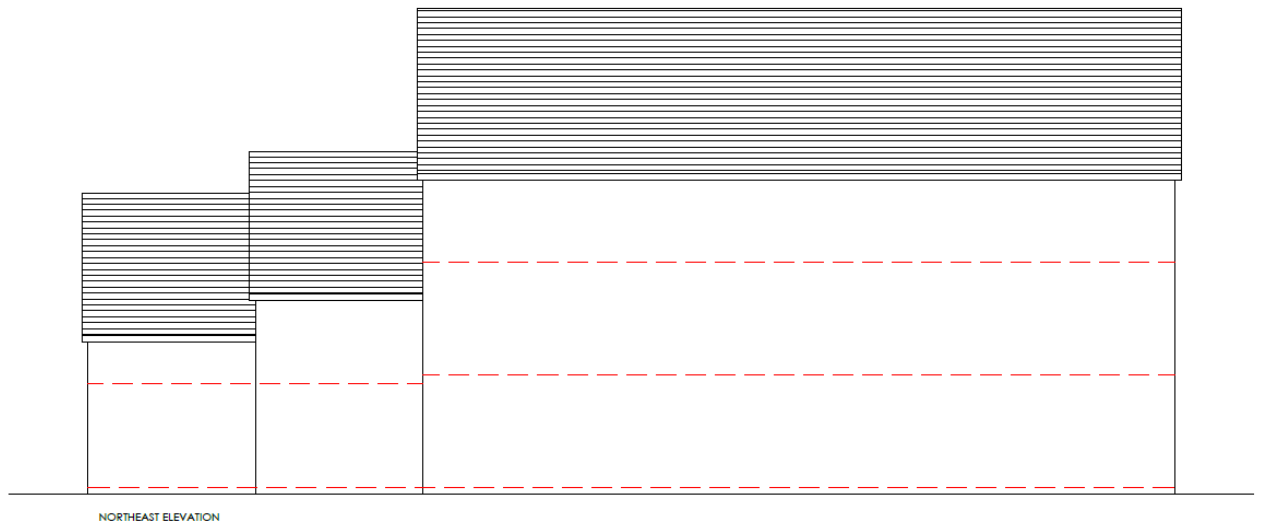


Ordnance Survey (c) Crown Copyright 2016. All rights reserved. Licence number 100022



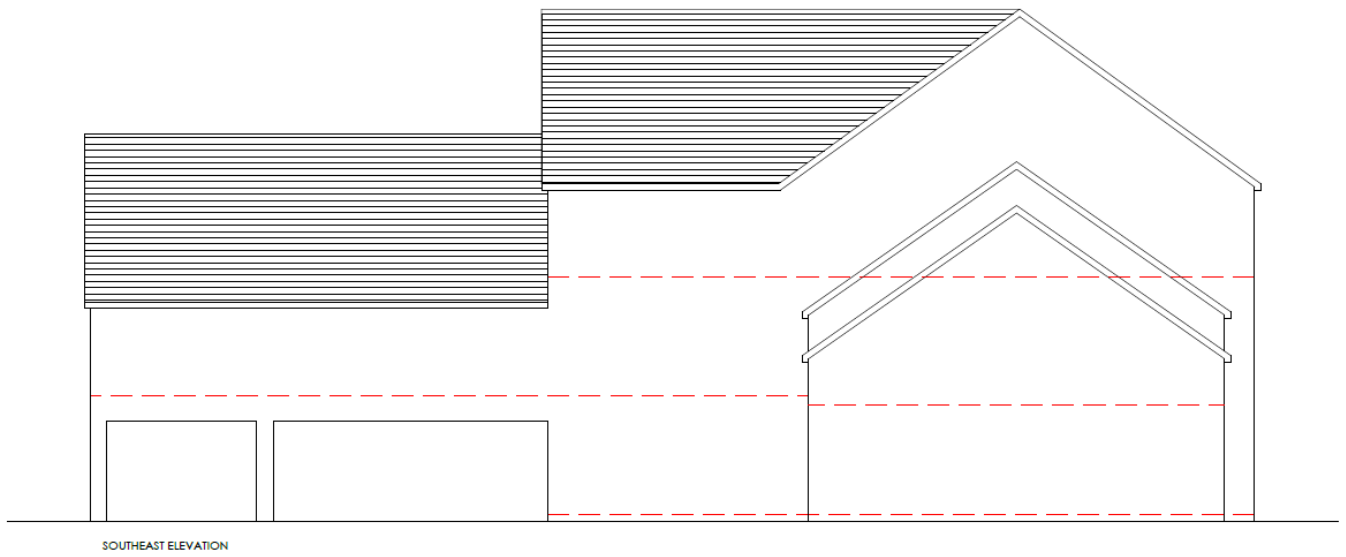
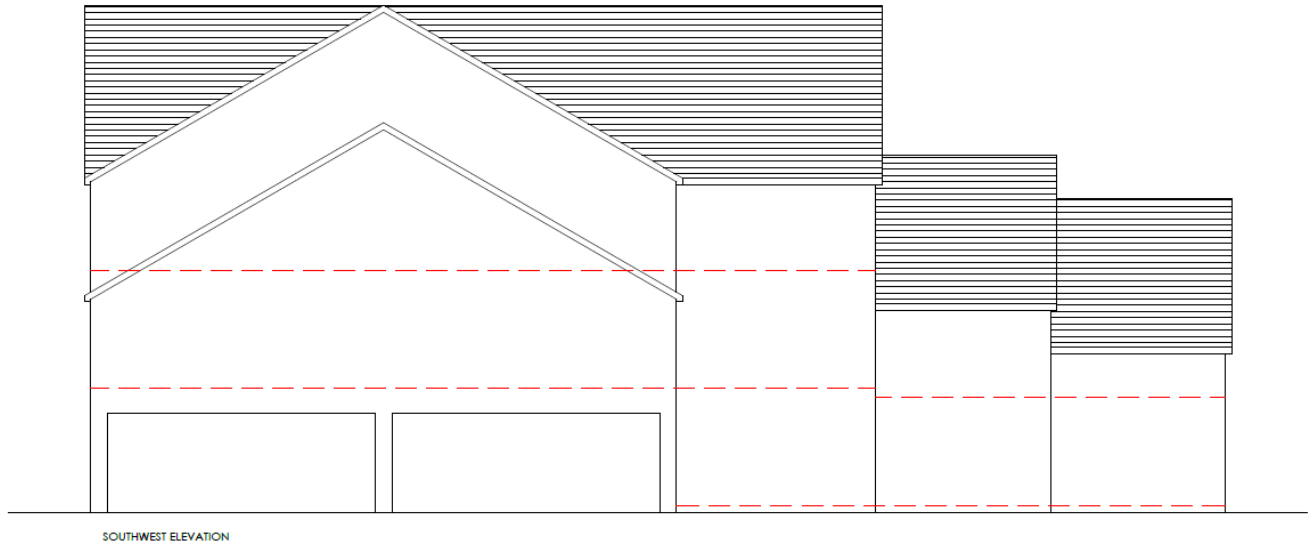
Appendix B

Front and side elevations



Appendix C

Rear and side elevations



## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 4

<b>Application No.:</b>	18/00736/VAR
<b>Location:</b>	Spices Silver Cottage The Green Datchet Slough SL3 9BJ
<b>Proposal:</b>	Variation of condition 3 (opening hours) (under Section 73) of planning approval 10/00659FULL (Change of use of the A1 part of Silver Cottage, to A3 use in conjunction with Spices Restaurant) (allowed on appeal) to vary the wording to "within these times, takeaway meals shall only be served after 6:30pm, (seven days a week)"
<b>Applicant:</b>	Mr Islam
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Datchet Parish/Datchet Ward

**If you have a question about this report, please contact:** Nuala Wheatley on 01628 796064 or at [nuala.wheatley@rbwm.gov.uk](mailto:nuala.wheatley@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 The proposal would result in increased vehicular movements within the commercial area of Datchet and would encourage on street parking. This would adversely affect road safety and the free flow of traffic, contrary to Policies P4 and T5 of the Local Plan. This would also impact on the amenity of the adjacent neighbouring properties and would contravene Core Principle 4 of the National Planning Policy Framework, which requires that a good standard of amenity is secured for all existing and future occupants of land and buildings

**It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):**

1.	Varying condition 3, to allow for the use of the premises to provide a takeaway service, will result in additional vehicular activity and on street parking would be encouraged. This would have an adverse impact on road safety and the free flow of traffic within the Datchet Commercial Area. The proposal therefore fails to comply with policies P4 and T5 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003) and emerging policy IF2 of the Borough Local Plan submission version.
2.	The proposal is likely to result in a source of increased nuisance and inconvenience to local residents by virtue of the increase in pressure upon the already limited on-street parking. As well as this, the take away service would likely lead to an increase in comings and goings and further disturbance to the neighbouring properties as a result. These factors would impact upon the living conditions of the occupiers of the adjacent properties, contravening Core Principle 4 of the National Planning Policy Framework which requires that a good standard of amenity is secured for all existing and future occupants of land and buildings.

### 2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Grey because of the public interest.

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

- 3.1 The application site is located within The Green, Datchet and comprises a pair of two storey semi-detached properties within the Datchet Village Conservation Area. The ground floor comprises Spices restaurant and associated kitchen, food preparation area, store and toilet facilities. The first floor provides accommodation and facilities for the restaurant staff.
- 3.2 The site is within the small settlement commercial area of Datchet, but its adjacent neighbour to the west is a residential property, Mays Cottage. To the south (rear) of the site is the railway line.

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

- 4.1 The application seeks to vary condition 3 of planning permission 10/00659 (granted on appeal) which controls opening hours and also prevents the use of the premises as a takeaway. The current wording of condition 3 is detailed below:

*'The premises shall not be open for customers outside the following hours: 11.00-22.30 Mondays- Thursdays, 11.00-23.00 Fridays and Saturdays, 11.00-22.30 Sundays and Bank Holidays. No takeaway meals shall be served at any time'.*

The applicant wishes to partly vary the wording of this condition to include: "within these times, takeaway meals shall only be served after 6:30pm (seven days a week)".

#### 4.2

Ref.	Description	Decision and Date
02/82249/FULL	Change of Use of part of the ground floor to a restaurant and erection of a single storey rear extension.	Refused, 10.02.2003
02/82250/RLAX	Variation of condition 4 of permission 467635 to permit the sale of take away meals between the hours of 18.00 and 21.00	Refused, 10.02.2003
05/00725/COU	Change of Use of rear part of ground floor of 2 Silver Cottage for use in connection with Spices Restaurant	Permitted, 24.06.2005
09/02431/FULL	Change of Use of the A1 part of Silver Cottage to A3 use in conjunction with Spices Restaurant.	Refused, 22.01.2010
10/00659/FULL	Change of Use of the A1 part of Silver Cottage to A3 use in conjunction with Spices Restaurant.	Refused, 18.05.2010 Allowed on Appeal, 21.02.2011
17/00332/VAR	Variation of planning permission 10/00659 (allowed on appeal) to vary condition 3 which prevents the use of the premises as a takeaway. (Retrospective).	Refused, 17.03.2017

#### 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework (NPPF): Core Principle 4

#### Royal Borough Local Plan



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

Highways and Parking
T5, P4

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)

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

Issue	Local Plan Policy
Sustainable Transport	IF2

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 Borough Local Plan submission version 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 details in the assessment below.

Significant weight is to be accorded to Borough Local Plan Submission Version policy IF2 in this case.

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)

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i Impact on Parking and Highway Safety
- ii Impact on Neighbouring Amenity

### **Impact on Parking and Highway Safety**

6.2 The application site lies within the centre of Datchet and the Datchet Commercial Area. The site is situated at the junction of The Green where it joins a side road leading to a level crossing and onto Queen's Road. Parking in this area is limited and there are double yellow lines directly in front of the restaurant.

6.3 Application 10/00659/FULL proposed a change of use of the A1 part of Silver Cottage to A3 use in conjunction with Spices restaurant. The application was subsequently granted on appeal, ref; APP/T0355A/10/2139866, and Condition 3 was imposed in order to minimise disturbance resulting from increased car movements and to protect the living conditions of residents.

6.4 Previous applications have sought to regularise the sale of takeaway meals from the restaurant. Application 02/82250/RLAX was refused due to the impact of the proposal on highway safety

and in order to protect neighbouring properties from nuisance. The Highways Authority expressed concerns regarding the relaxation of said condition, stating;

*'On street parking to the front of the parade is restricted in the form of double yellow lines. Elsewhere in The Green are further restrictions and designated residential parking. The proposal would encourage patrons to park as close to the premises as possible. In view of the proximity of the premises to the road junction and to the level crossing the proposal would compromise road safety'.*

- 6.5 Application 17/00332/VAR also sought to vary condition 3 of application 10/00569/FULL to permit the sale of takeaway meals. In their consultation response, the Highways Authority stated that they were of the opinion that their comments from 02/82250/RLAX were still relevant and that the flow of the traffic at the site has only worsened since the 2011 appeal. The Highways Authority have confirmed that their comments from applications 02/82250/RLAX and 17/00332/VAR still hold good.
- 6.6 The applicant considers that this application proposes an updated scheme which represents a material change to the scheme as set out in application 17/00332/VAR, this includes varying the wording of condition 3, rather than removing the final sentence, to restrict the times at which takeaways can be sold (after 6:30pm). The applicant has attempted to outline steps which would encourage parking away from the premises, these include;
- a) A clear and prominent notice will be placed in the window of Spices outlining the agreed times of the takeaway service. This notice will also make clear that any customers wishing to use the takeaway service must use one of the permitted car parking options in the immediate locality – this information will also be displayed on the website.
  - b) Any customer entering Spices to order and/or pick up a takeaway is asked where they have parked. In such circumstances the sale to such a customer will not proceed unless they have indicated compliance with one of the permitted car parking options.
  - c) Any customer phoning Spices to order a takeaway will also be advised of the above.

Whilst it is acknowledged that the applicant has committed to mitigating any potential adverse impact on parking and highway safety, it is officer's opinion that there is no guarantee that these procedures will be adhered to, many customers may simply choose to ignore the notice placed on the window, or presumably will have already parked up before seeing the notice on the premises. Subsequently, it is considered that it would be impossible to monitor or enforce the 'pro-active' steps via condition and therefore there would be no way to encourage parking away from the premises. In light of this it is considered that the adverse impacts on road safety and the free flow of traffic as a result of the proposal, would not be successfully mitigated by the proposed 'pro-active' steps.

- 6.7 The applicant has stated that it is disproportionate and inconsistent for Spices to be subject to such scrutiny when other Datchet businesses do not face the same. Each planning application should be treated on its own merits, but regardless, none of these premises were the subject of a change of use application and appeal where the ability to impose such a condition can be exercised. In addition, some of the premises identified, e.g. Francos Italian Bar and Lounge within Sopwith Court, have dedicated parking at the rear.
- 6.8 In light of the above it is considered that by varying condition 3, to allow for the use of the premises to provide a takeaway service, additional vehicular activity would be generated and on street parking would be encouraged. This would adversely affect road safety and the free flow of traffic. The proposal therefore fails to comply with Policies P4 and T5 of the adopted Local Plan and emerging policy IF2 of the Borough Local Plan submission version.

## Impact on Neighbouring Amenity

- 6.9 As with the previous application, 17/00332/VAR, the variation of condition 3 is considered to significantly impact the living conditions of the adjacent residential properties. If a takeaway service was permitted, increased pressure would be put upon the already limited on-street parking within the vicinity. This would result in increased disturbance and inconvenience for the occupiers of these properties. Despite the addition of wording to control the times in which takeaways are served, it is considered that serving takeaways as late as 11pm could detrimentally impact the living conditions of the adjacent neighbours due to increased comings and goings. It is therefore considered that the proposal contravenes Core Principle 4 of the National Planning Policy Framework which requires that a good standard of amenity is secured for all existing and future occupants of land and buildings.

## 7. CONSULTATIONS CARRIED OUT

### Comments from Interested parties

18 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on the 23<sup>rd</sup> March 2018.

2 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	There are already parking issues outside these premises – the double yellow lines are often ignored and cars park completely on the pavement which is a hazard.	6.2
2.	The only difference between this application and the one refused a year ago (17/00332/VAR) is that the applicant is now proposing to increase the sales of takeaway meals.	Considering application 17/00332/VAR sought to permit the serving of takeaways and this current application seeks to permit the serving of takeaways only after 6:30pm, it is not considered that this application proposes an increase in the sale of takeaway meals.
3.	Condition 3 was inserted by the Inspector as part of Spices A3 Planning Consent and has since been upheld by the Local Authority – it is likely that without this condition the change of use may never have been granted and therefore it should not be removed.	Noted
4.	The officer report for application 17/00332/VAR found that a takeaway service would have an unacceptable impact on road safety, parking and neighbouring amenity which still holds good.	6.5

5.	The applicant's promise that he will tell his customers to park responsibly carries no obligation on his part, legal or otherwise – is impossible to monitor and would be unenforceable.	6.6
6.	Spices have put up a 'No Parking' sign but this has only resulted in drivers parking outside the residential properties causing more nuisance and the constant car movements impact on residential amenity.	6.9
7.	The applicant is seeking permission for serving takeaways until as late as 11pm – this could mean car doors banging late at night.	6.9
8.	Spices have compared themselves to village shops with different planning histories and parking arrangements e.g. Franco's wine bar which has dedicated parking behind their premises.	6.7
9.	Spices intend on providing this service 7 days a week along with their restaurant provision which already makes significant demands on the limited parking in the village centre. The two together will enormously increase pressures on parking, road safety and nuisance.	6.3 – 6.8

#### Other consultees

Consultee	Comment	Where in the report this is considered
Datchet Parish Council	<p>Members OBJECTED to this application on the grounds that a takeaway service would generate additional vehicular activity on an already busy road junction and in close proximity to a level crossing, which would adversely affect road, pedestrian and passenger safety and the free flow of traffic through the village. The voting being, For Objection: 6 Against Objection: 0 Abstaining: 1</p> <p>Members also commented that the restaurant is still serving takeaways even though they have no permission to do so.</p>	Noted

<p>Environmental Protection</p>	<p>The proposal is likely to put extra demand on the kitchen extraction and filtration system, this may have a detrimental impact of the residential amenities. The system would need to be upgraded to ensure noise and odour emanating from the extractor flue are controlled to a level that would not cause nuisance. Should planning permission be granted, the following conditions be attached to the consent notice:</p> <p><b>Kitchen Extraction Systems</b></p> <p>Prior to the use of the development, details of equipment for the purpose of extraction and filtration of odours including maintenance, cleaning and filter replacement schedule shall be submitted to and approved in writing by the local planning authority. The approved extraction/filtration scheme shall be installed before the use hereby permitted is commenced and shall thereafter be retained as such.</p> <p>It is recommended that details are in accordance with Annex B and C of the “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems,” prepared by Netcen on behalf of the Department for Environment, Food and Rural Affairs (DEFRA) dated January 2005 available at:  <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69280/pb10527-kitchen-exhaust-0105.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69280/pb10527-kitchen-exhaust-0105.pdf</a></p> <p>Noise from the system must also be considered.</p> <p>Reason: To protect the amenities of the area and prevent nuisance arising from odour and to accord with the Local Plan Policy NAP3.</p> <p><b>Noise Plant and Equipment</b></p> <p>The rating level of the noise emitted from plant and equipment shall not exceed the existing background level (to be measured over the period of operation of the proposed plant and equipment and over a minimum reference time interval of 1 hour in the daytime and 15 minutes at night). The noise levels shall be determined 1m from the nearest noise-sensitive premises. The measurement and assessment shall be made in accordance with BS 4142: 2014.</p> <p>Reason: To protect the residential amenities of the area. Relevant Policy Local Plan NAP3.</p>	<p>Noted</p>
---------------------------------	--	--------------

<p>Highway Authority</p>	<p>It should be noted the Highways Authority has previously recommended a refusal under planning applications 02/82250 and 17/00332.</p> <p>From our perspective these comments still hold good. In fact given the amount of additional vehicles on the highway since then and given the local situation it may well be worse.</p> <p>It should be noted the inspector under 10/00659 (appeal) stated “No takeaway meals shall be served at any time”.</p> <p><b>Vehicle Movements / per day:</b></p> <p>The Project Centre has grave concern with respect to the relaxation of the condition. On street parking to the front of the parade is restricted in the form of double yellow lines. Elsewhere in the Green are further restrictions and designated residential parking. The premises are poorly served for customer parking and situated on a frequently congested approach to a level crossing.</p> <p>The site is situated at the junction of the Green where it joins a side road leading to a level crossing and into Queen’s Road. The proposal would encourage patrons to park as close to the premises as possible. In view of the proximity of the premises to the road junction and to the level crossing the proposal would compromise road and pedestrian safety.</p> <p>In view of the concerns raised above the Project Centre recommends that permission be refused on the following grounds:</p> <p><b>Refusal:</b> The proposal would generate additional vehicular activity and encourage on street parking in the vicinity which would adversely affect road and pedestrian safety and the free flow of traffic. The proposal therefore fails to comply with policies P4 and T5 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).</p>	<p>Noted</p>
--------------------------	---	--------------

**9. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan and site layout

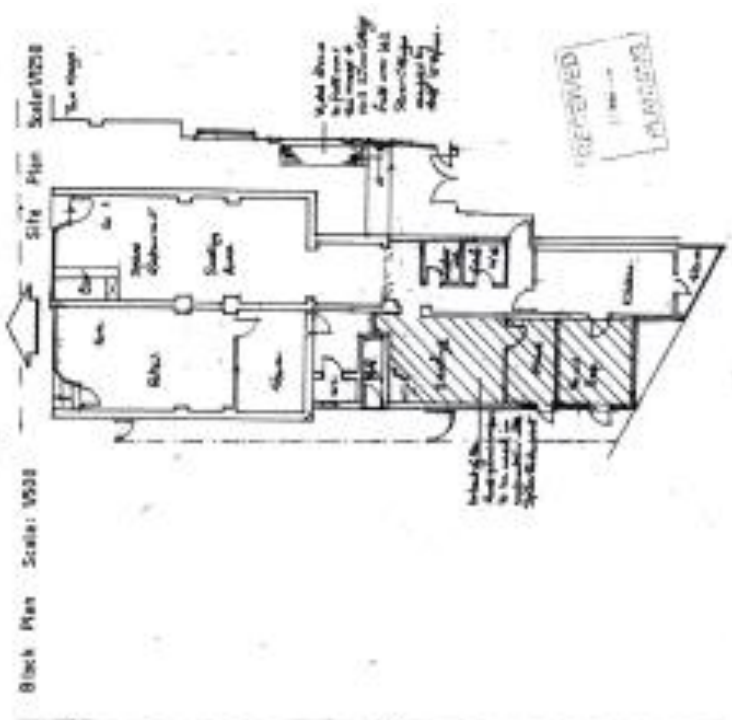
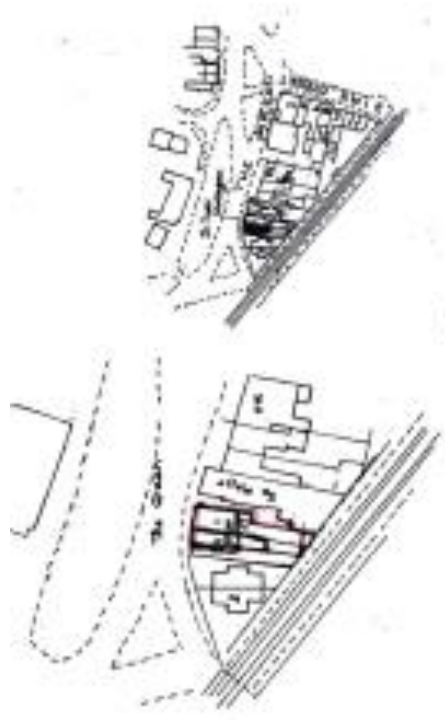
**10. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED**

- 1 It is considered that by varying condition 3, to allow for the use of the premises to provide a takeaway service, additional vehicular activity would be generated and on street parking would be encouraged. This would have an adverse impact on road safety and the free flow of traffic within the Datchet Commercial Area. The proposal therefore fails to comply with policies P4 and T5 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).
- 2 The proposal is likely to result in a source of increased nuisance and inconvenience to local

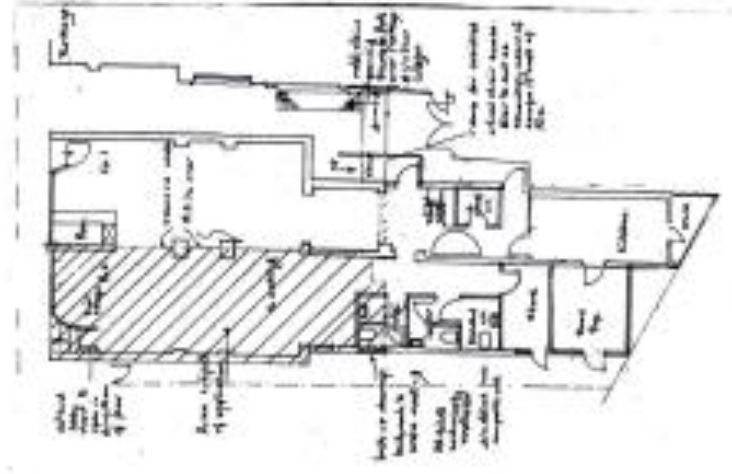
residents by virtue of the increase in pressure upon the already limited on-street parking. As well as this, the take away service would likely lead to an increase in comings and goings and further disturbance to the neighbouring properties as a result. These factors would impact upon the living conditions of the occupiers of the adjacent properties, contravening Core Principle 4 of the National Planning Policy Framework which requires that a good standard of amenity is secured for all existing and future occupants of land and buildings.

Appendix A

Location and site plans



Ground Floor as Existing



Ground Floor as Proposed



## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 5

<b>Application No.:</b>	18/00796/CLU
<b>Location:</b>	9 Black Horse Close Windsor SL4 5QP
<b>Proposal:</b>	Certificate of lawfulness to determine whether the existing use of x4 studio flats and x1 one bedroom flat is lawful
<b>Applicant:</b>	Ms & Mrs Sall
<b>Agent:</b>	Mr Paul Butt
<b>Parish/Ward:</b>	Windsor Unparished/Clewer North Ward

**If you have a question about this report, please contact:** Vivienne McDowell on 01628 796578 or at [vivienne.mcdowell@rbwm.gov.uk](mailto:vivienne.mcdowell@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 This application is for a Certificate of Lawfulness relating to the use of the building as 5 self-contained and separate flats. In considering this application the Local Planning Authority needs to analyse the evidence presented by the applicants and to determine whether or not 'on the balance of probability', the use has been continuously in existence for each of the flats during the 4 year period which preceded the submission of the application (in March 2018).
- 1.2 From the evidence submitted, it is considered that the use of the 5 flats have been used continuously for the requisite 4 years and therefore the use is considered to be 'lawful'.
- 1.3 This application is not to determine whether the use is 'acceptable' or not, it is to establish the position in terms of whether the use is 'lawful', based on evidence submitted by the applicant. Should the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application. Local Plan policies are not relevant to this application; rather an assessment has to be made as to whether the use the 5 flats is lawful

**It is recommended to the Grant the Certificate of Lawfulness.**

### 2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Hashim Bhatti, to protect against overdevelopment in Clewer North.

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

- 3.1 The site is at the end of the cul-de-sac Black Horse Close. The building is a 3-storey terrace building flanked on either side by 9A and 10 Black Horse Close.

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

- 4.1 This application is for a Certificate of Lawfulness to determine whether the existing use of the 4 studio flats and 1 x 1-bedroom flat is lawful.

#### Planning History

**13/00449/FULL** – Demolition of the existing side extension, rear conservatory and double garage and erection of an end of terrace 3 storey town house and rear extension to existing dwelling with associate works. Permission granted 25/4/2013.

**13/02197/CPD:** Certificate of Lawfulness to determine whether proposed single storey front porch and rear extension is lawful. Certificate of Lawfulness granted 6/8/2013.

## **5. EXPLANATION OF RECOMMENDATION**

5.1 The key issues for consideration are:

- i Whether the use of the building has been used continuously during the 4 year period prior to the submission of the application (March 2018).

5.2 The building currently comprises five separate flats each with its own kitchenette, and shower room. Each of the 5 flats has its own entrance door within the building, and these are accessed via a shared corridor. The main single entrance to all the dwelling units is on the front elevation. There is one external post box for all the units and no individual door bells.

5.3 At the time of the Planning Officer's site visit in April 2018, each of the 5 flats appeared to be inhabited and each flat was self contained – with kitchenette and shower room.

5.4 Within the shared spaces/corridors and on each floor there is a shared washing machine and tumble driers. There is a shared garden area and also a shared kitchenette facility on the ground floor for use of all of the flat residents – located by the garden area.

5.5 Section 171 of the Town and Country Planning Act 1990 sets out the time limits after which developments can be considered lawful if no enforcement action has been taken. Section 171B (2) states

*"Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach"*

Self-contained flats are considered to be single dwellinghouses as each flat is an individual residential unit. To be lawful each of these units would need to have been used continuously as separate dwellings for at least the 4 years leading up to the date of the planning application (19<sup>th</sup> March 2014 - 19<sup>th</sup> March 2018).

5.6 Local Plan policies are not relevant to this application; rather an assessment has to be made as to whether the use the 5 flats is lawful.

5.7 Section 191 of the Town and Country Planning Act 1990 is the relevant section when dealing with Certificates of Lawful Use or Development. Section 191 (1) (a) states that the use will be lawful if no enforcement action or Breach of Condition Notice could be served and, that the use or development does not constitute a contravention of any of the requirements of any Enforcement Notice then extant. In this case there are no extant Enforcement Notices in respect of this property.

5.8 The onus is on the applicant to demonstrate with precise and unambiguous evidence that, on the balance of probabilities (i.e. that it is more likely than not), the existing use of the five flats as separate independent residential units has occurred for the requisite 4 year period.

5.9 The Court has held (see *FW Gabbitas v SSE and Newham LBC* (1985) JPL 630) that the applicant's own evidence does not need to be corroborated by other evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate "on the balance of probability."

5.10 On considering the evidence provided in support of the application, should the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of

events less than probable, there is no good reason to refuse the application. This is provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

5.11 The following evidence has been submitted by the applicant:

- Copies of letters from Builder and Electrician advising they carried out works to convert the building into 5 self-contained units (commencing in September 2013 and finishing in mid January 2014)

-Signed Affidavits from the Builder and Electrician advising that they carried out works to convert the building into 5 self-contained units (commencing in Sept 2013 and finishing in mid January 2014).

-Copies of various invoices from S.H. General Building Services covering the period from September 2013 to February 2014.

-Copies of tenancy agreements for each of the 5 flats – covering the period from March 2014 onwards.

-A letter from the tenant of Flat 2, advising that she has lived there from 31<sup>st</sup> December 2013 to the present day.

-Copies of bank statements from the period 1<sup>st</sup> March 2014 to 12<sup>th</sup> February 2018 – showing regular (monthly) rent payments and electricity payments for each of the flats during that 4 year period.

-Plans and particulars of the building before and after the conversion of the building.

-Copy of the Domestic Installer Electrical installation work certificates of compliance and BBS Building Control Final Certificate dated 12/2/2014 relating to: 'Single storey rear extension and internal alterations, including the installation of en-suite bathrooms and conversion to HMO'.

## **ANALYSIS OF EVIDENCE**

5.12 Evidence is needed to show that the existing use of each of the 5 flats as separate residential units has taken place for at least 4 years.

5.13 The affidavits from the builder and electrician provide evidence of the conversion works to the building to provide self-contained 5 flats. These are supported by invoices from SH General Building for the period between September 2013 and February 2014, but these are not itemised, and are not conclusive evidence in their own rights.

5.14 From the evidence in the tenancy agreements and the regular payments from tenants identified in the bank statements, there appear to be no gaps in the occupation of each flat. The evidence submitted is therefore considered to be sufficient to prove that on the balance of probabilities that this change of use took place more than 4 years ago and has been in place and used continuously, ever since.

5.15 It is noted that the submitted BBS Building Control Final Certificate dated 12<sup>th</sup> February 2014 refers to conversion to 'HMO'. However, the reference to 'HMO' on this building control certificate is not considered to be definitive for planning purposes; nor does it provide evidence to disprove that each unit was used and occupied continuously as 'separate dwelling units' over the 4 year period prior to the submission of the application in March 2018.

5.16 The LPA has no evidence of its own to disprove that the building was used as 5 self-contained flats within the 4 year period ending March 2018. The property has not been the subject to investigation by the Council's Enforcement Officers.

5.17 It is considered that the submitted evidence is sufficient to prove that on the balance of probabilities the use of the building for 5 separate flats has been established.

## 6. CONSULTATIONS CARRIED OUT

### Comments from interested parties

5 occupiers were notified directly of the application.

The planning officer posted a notice at the site on 4 April 2018.

2 letters was received objecting to the application, summarised as:

Comment	Officer Response
1.	There is non-stop building work in Black Horse Close. A new 3 storey dwelling was erected at 9A – which has been converted to 6 bedsit apartments. No. 8 has been converted to 6 bedsits. Another application has been submitted for a further dwelling at the side of No. 8 – which will be more bedsits. With 9 Black Horse Close, this means a total of 23 bedsits/flats in this tiny close.
2.	Concern about noise, traffic, disturbance the extra people will bring to Black Horse Close. Insufficient space for all the cars. Adverse impact on residents.

This is an application for a Certificate of Lawfulness. The LPA needs to assess the evidence submitted and come to a conclusion ‘on the balance of probability’, as to whether the flats at No 9 have been used continuously for 4 years immediately prior to March 2018.

The impact of the flats on local residents is not a consideration in a Certificate of Lawfulness Application.

The impact of the flats on local residents is not a consideration in a Certificate of Lawfulness Application.

## 7. RECOMMENDATION

7.1 The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities the existing use of the five separate flats has continued for at least four years. A Certificate of Lawfulness therefore can be issued.

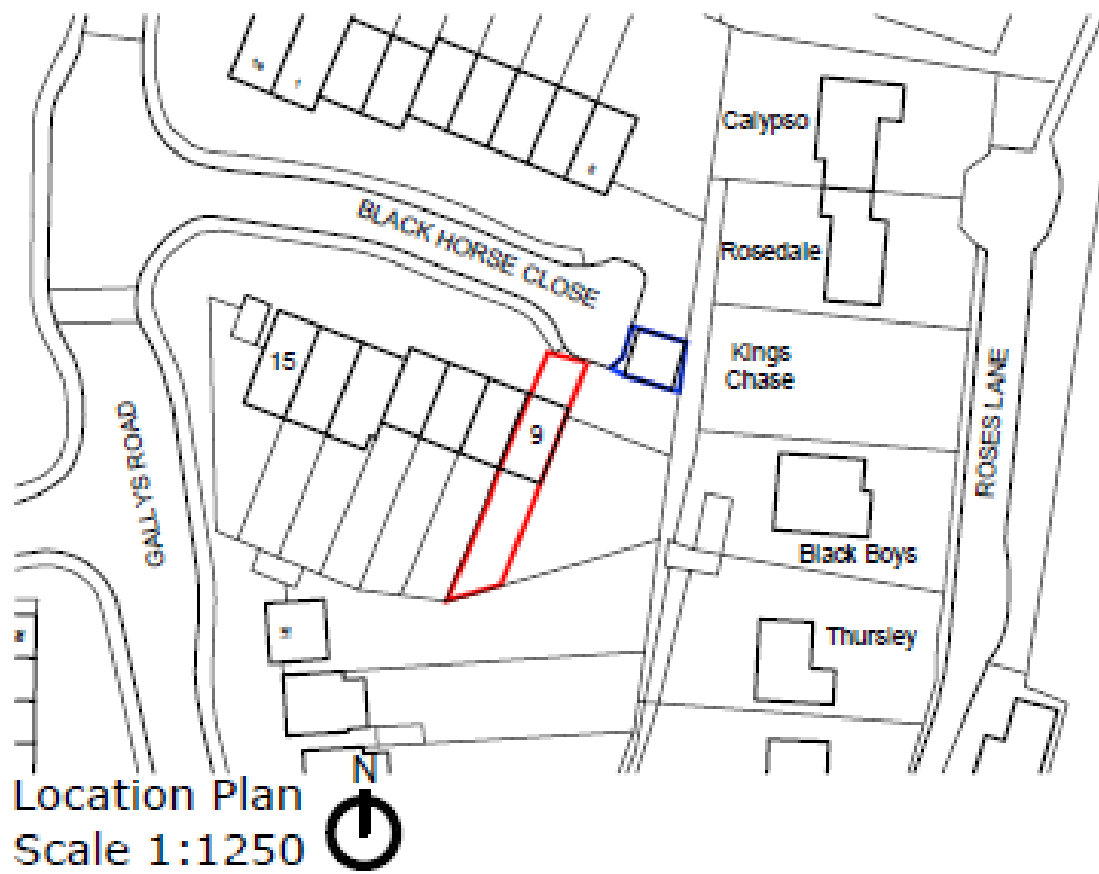
## 8. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – Floor Plans

1 The applicants have demonstrated that, on the balance of probability, that each of the 5 flats has been used continuously as separate dwelling units for a period of 4 years prior to the submission of the application 18/00796/CLU.

APPENDIX A

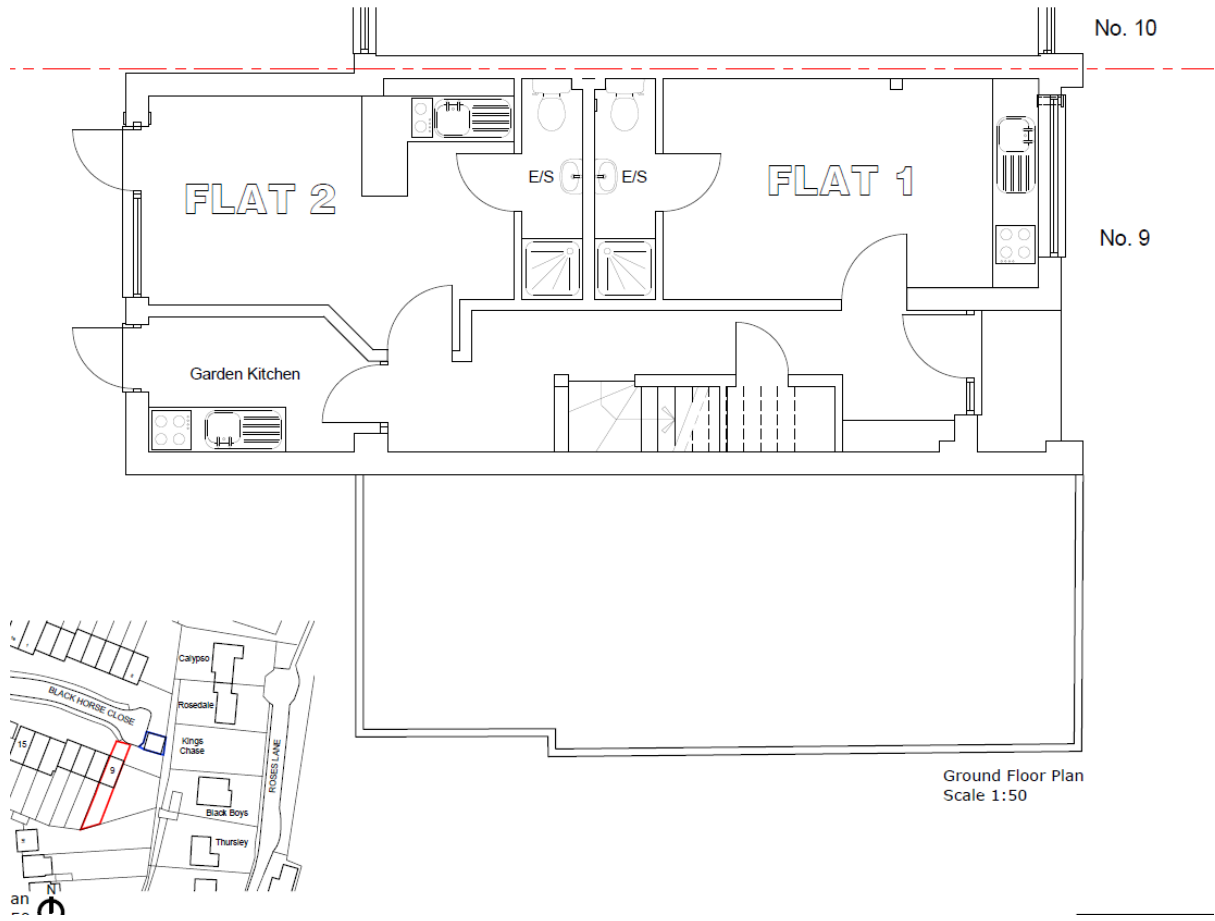
18/00796/CLU – 9 Black Horse Close, Windsor



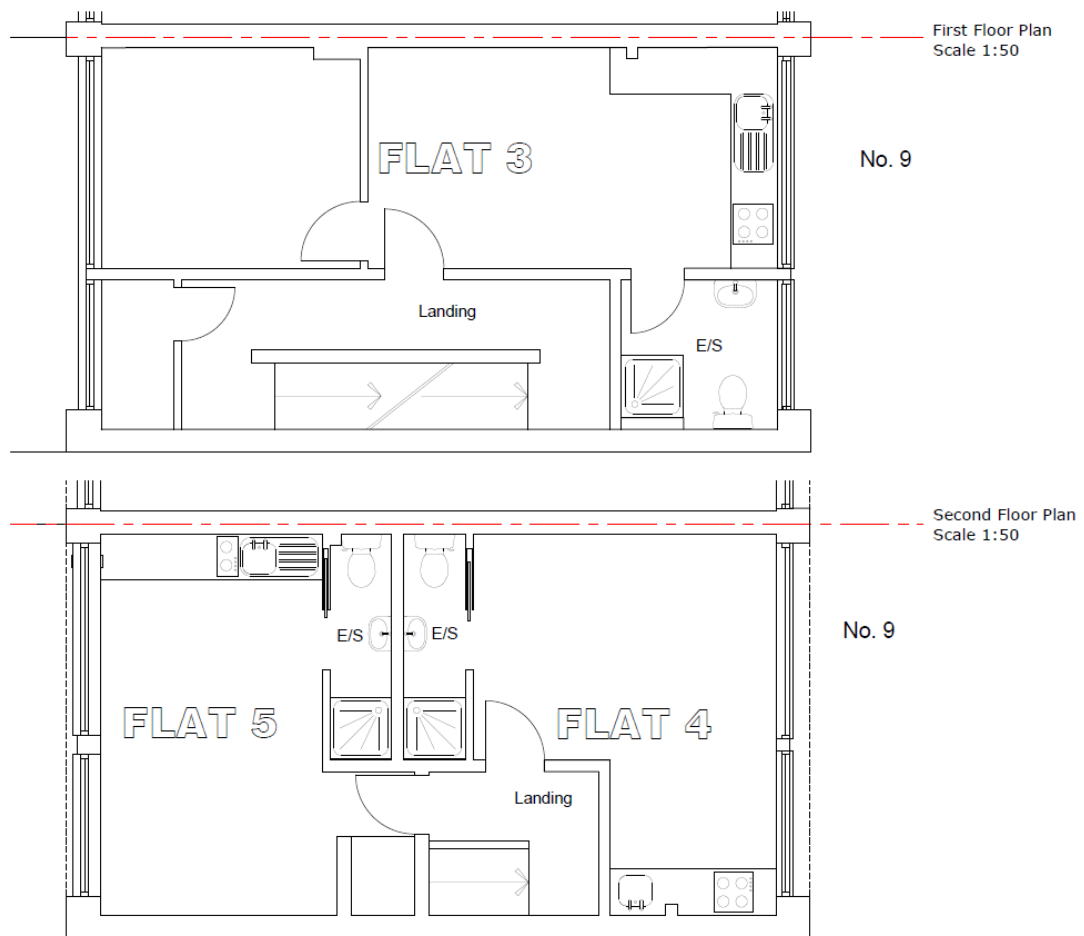
APPENDIX A : 18/00796/CLU – 9 Black Horse Close, Windsor



APPENDIX B : 18/00796/CLU – 9 Black Horse Close, Windsor



APPENDIX B : 18/00796/CLU – 9 Black Horse Close, Windsor





## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 6

<b>Application No.:</b>	18/00253/FULL
<b>Location:</b>	Land At 8 Black Horse Close Windsor
<b>Proposal:</b>	Construction of a three storey terraced dwelling with new vehicular and pedestrian access and associated parking following the demolition of existing extension and garage.
<b>Applicant:</b>	Mr Hunjan
<b>Agent:</b>	Mr Chris Dale
<b>Parish/Ward:</b>	Windsor Unparished/Clewer North Ward

**If you have a question about this report, please contact:** Vivienne McDowell on 01628 796578 or at [vivienne.mcdowell@rbwm.gov.uk](mailto:vivienne.mcdowell@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 This application is for a 3 storey terraced house attached to No 8. The applicants have advised that the new house is intended to be used as a single dwelling unit. A new end of terrace house has been built on the opposite side of the close - No 9A.
- 1.2 The Highway Authority is satisfied that there would be adequate parking for the existing single dwelling unit at No 8 and the proposed new single dwelling. Furthermore, it is considered that there is adequate separation distance between the new houses and adjacent houses in Roses Lane and that there would be no significant adverse impact on the amenities of neighbouring properties. The proposed house would respect the appearance and character of the surrounding area. Overall, the scheme is considered acceptable.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Hashim Bhatti, to protect against overdevelopment in Clewer North.

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

- 3.1 The site is at the end of the cul-de-sac Black Horse Close. The existing building at No 8 is a 3-storey terrace building which has been extended at the side and has a garage.

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

- 4.1 The proposal is for a 3-storey terraced dwelling with new vehicular and pedestrian access, new parking spaces following demolition of existing extension and garage.

#### 4.2 Relevant History for No. 8

**18/00084/PDXL** Single storey rear extension no greater than 6 m depth , 3 m high and an eaves height of 3m. Planning Permission Not required – decision issued 22 Feb 2018.

**465876.** Convert existing internal garage to habitable rooms and erection of single storey side extension an new detached garage. Approved 1987.

### 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections

## Royal Borough Local Plan

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

Within settlement area	Highways and Parking
DG1, H10, H11	P4, T5

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)

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Makes suitable provision for infrastructure	IF1

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 details in the assessment below.

Significant weight is to be accorded to Borough Local Plan Submission Version policies SP3, SP2 and IF1 in this case. The above application is considered to comply with the relevant policies listed within the Development Plan and those Borough Local Plan Submission Version policies to which significant weight is to be accorded.

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

5.3 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)

## 6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i The principle of the development and the impact on the character and appearance in the street scene.
- ii Parking and highway considerations
- iii Impact on neighbours and living environment for future occupiers

**i Principle of the development and the impact on the character and appearance in the street scene.**

- 6.2 The proposal is for a new dwelling adjoining No 8. The new building would be on the end of a terrace of 3 storey houses. The site is not in the Green Belt and is not in an area liable to flooding.
- 6.3 The layout plans show a total of 4 bedrooms on the first and second floors of the building. Each of the bedrooms has its own en-suite shower room and WC. On the ground floor the plans show a dining/day room, kitchen, living room area, TV room, office and shower/laundry room. On face value the layout appears to resemble a small house of multiple occupation (HMO). However, the applicant's agent has confirmed that the building is intended to be used as a single dwelling house.
- 6.4 It is considered it would be unreasonable to require the removal of en-suite shower rooms from the scheme, or require a different internal layout for a single dwelling house, as internal alterations could be carried out post construction without requiring planning permission.
- 6.5 Nevertheless, the LPA could impose a condition to remove permitted development rights from Class C3 to C4, in order to ensure the building is used solely for C3 (Dwellinghouse Use) and not for C4 (HMO). Normally, buildings can change use between Class C3 and C4 without requiring planning permission.
- 6.6 The C3 Dwellinghouses class is formed of 3 parts:
- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
  - C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
  - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- 6.7 C4 Houses in multiple occupation are defined as small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
- 6.8 It is considered reasonable to impose such a condition to ensure that there is adequate car parking for the development. However, the principle of a single dwellinghouse is acceptable as the site lies in a residential area and it would provide an additional residential unit.
- 6.9 In terms impact on the street scene, it is considered that the design and scale of the building is in keeping with the surrounding buildings. The materials, fenestration and form of the building would replicate the adjoining existing property. It would read as a natural continuation of the terrace, matching the opposite terrace where a similar development has already been constructed. The

layout provides for one wedge shaped area of soft ground at the eastern end of the cul-de-sac, and a small area in front of the proposed 8A. Landscaping details can be secured by condition.

## **ii Parking and highways.**

- 6.9 The site is not considered to be in an area of good accessibility as the site is not within 800 metres of train station. Although, it is noted that there are bus stops serviced by No. 2, 10, 16, 16A and W1 within 200m of the site. In this location 3 parking spaces are required for each 4-bedroom house. A total of 6 spaces are to be provided for the existing house at No 8 and the proposed dwelling.
- 6.10 The parking levels proposed are considered to be adequate for a new single house. The layout of the parking area is also considered acceptable in this location and there is no objection to the increased size of the crossover.
- 6.11 There is concern that if the building is not used as a single dwellinghouse (C3 use) and used instead as a HMO (C4 use) there would be inadequate parking provision. In the case of a HMO (C4 use) a parking space would normally be required for each bedroom. A HMO is also likely to generate more traffic movements than a 4-bedroom single house. It is therefore reasonable to impose a condition removing permitted development rights for this change from the property.

## **iii Impact on neighbouring properties and living environment for future occupiers**

- 6.12 The adjacent bungalows in Roses Lane (Calypso and Rosedene) have rear gardens of approximately 8 metres (length). The 3-storey part of the new building would be at least 4.5 metres from the shared boundary with Calypso and at least 5 metres from the shared boundary with Rosedene. The proposed single storey side extension would be at least 1.5 metres from the shared boundary with Calypso and at least 2 metres from the shared boundary with Rosedene. It is considered that there is adequate separation distances between the properties in Rosedene and the proposed new building. It is also considered that the proposed new building would not give rise to unacceptable loss of outlook, loss of light or over-bearing impact.
- 6.13 There are proposed windows in the first and second floor flank elevation which would serve a landing and stairwell. These are shown on the plans to be obscure glazed. A condition can be imposed to ensure these windows are obscurely glazed and are fixed non-opening (except for a high level opening).
- 6.14 It is not considered that the additional new parking spaces to serve the existing house and the proposed new dwellinghouse, would give rise to such unacceptable levels of noise, disturbance, fumes to adjacent properties, to warrant refusal on those grounds.
- 6.15 The existing property at No 8, would be left with a small garden area – approximately 7.8 metres in length and 5 metres in width. As there are no prescribed minimum garden areas, it is considered the limited size of the remaining garden for No 8 would not justify a reason for refusal, in this instance. The new building would have a much wider larger garden area to the rear and an amenity area to the side of the house. The garden space for the new building is considered to be acceptable.

## **iv Other Material Considerations**

### Housing Land Supply

6.16 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Following the Regulation 19 consultation on the Submission Version of the Local Plan, the Council formally submitted in January 2018. The Borough Local Plan 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.

## 7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

7.1 The proposed new house is CIL Liable and CIL payments would be applicable to the additional floorspace created at the current rate of £240 per square metre. The total new floor space amounts to approximately 175.82 square metres. The extension and garage to be demolished amounts to approximately 54.33 sq metres. Therefore, unless the applicant is claiming self build, CIL would be payable on the additional 121.5 square metres (amounting to £29,160.00).

7.2 CIL payments will need to be confirmed with the Council's CIL Officer following submission of the requisite forms.

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

11 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 12/4/2018.

No letters were received supporting the application.

4 letters were received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. There is non-stop building work in Black Horse Close. A new 3 storey dwelling was erected at 9A – which has been converted to 6 bedsit apartments. No. 8 has been converted to 6 bedsits. Another application has been submitted for a further dwelling at the side of No. 8 – which will be more bedsits. With 9 Black Horse Close, this means a total of 23 bedsits/flats in this tiny close.	See paragraphs 6.6 - 6.11
2. Concern about noise, traffic, disturbance the extra people will bring to Black Horse Close. Insufficient space for all the cars. Adverse impact on residents.	See paragraphs 6.6 - 6.14
3. Environmental impact of 3 storey multiple occupancy. This is not a proposed family home. These are 4 studio apartments.	See paragraphs 6.6-6.8
4. Rear gardens of neighbouring houses borders onto area identified for associated parking. This will raise noise, air pollution levels -health hazard. This compounded by 9A in multiple occupation has an environmental impact on neighbouring garden.	See paragraph 6.14
5. Loss of privacy to garden of Calypso, Roses Lane.	See paragraph 6.14
6. Lack of on-street parking, difficult for emergency vehicles to turn in the close. Vehicles often have to reverse back down the road. Black Horse is already overpopulated.	See paragraphs 6.9-6.11

## Statutory consultees

Consultee	Comment	Where in the report this is considered
Highways	No objection raised to a single dwelling house. Concern about lack of parking if this is to be a HMO or flats. Suggested conditions regarding access construction and submission of a construction management plan.	See paragraphs 6.9-6.11.  Conditions to be included See Section 10.
Environmental Protection	No objection raised. Suggested conditions regarding details of noise insulation to be submitted. Standard informatives suggested regarding aircraft noise,dust, smoke control and construction working hours.	Noted. Conditions and informatives to be included see Section 10.

## Other consultees

Consultee	Comment	Where in the report this is considered
Tree Officer	<p>The linear TPO, no. 6 of 1959, on the eastern boundary of the site dates back to 1959 and covered several elm trees. These trees no longer exist, having likely succumbed to Dutch Elm disease. The cypress hedge is not protected. There is another TPO covering trees in the rear gardens of the adjacent properties to the east, but from photographs, there don't appear to be any trees affected by the development proposal.</p> <p>The development will result in the loss of amenity space and whilst existing planting in the area doesn't make the best opportunity of space available, this will be further diminished if the additional parking bays and driveway is allowed. The layout provides for one wedge shaped area of soft ground at the eastern end of the cul-de-sac, and a small area in front of the proposed 8a. However, the intention of the applicant is unclear in regard to these two areas and it has not been demonstrated that an adequate landscaping scheme can be implemented.</p>	A landscape condition is to be imposed. See condition 8 in Section 10.

## 9. APPENDICES TO THIS REPORT

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

## 10. 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 Irrespective of the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without

modification) the development shall not be used for a use falling within Use Class C4 (houses in multiple occupation) without planning permission having first been obtained from the Local Planning Authority.

Policies - Local Plan P4.

- 3 Prior to the commencement of any works or demolition a construction 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.
- 4 No other part of the development shall commence until the access has been constructed in accordance with the approved drawing. The access shall thereafter be retained.  
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5, DG1
- 5 No development shall take place until details of the measures to be taken to acoustically insulate all habitable rooms of the development against aircraft noise, together with details of measures to provide ventilation to habitable rooms, have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried out and completed before the development is first occupied for residential purposes and retained.  
Reason: To ensure an acceptable living environment for future occupiers. Relevant Policies Local Plan NAP2, H10.
- 6 The materials to be used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwelling house unless first otherwise agreed 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 Policies - Local Plan DG1.
- 7 No part of the development shall be occupied until vehicle parking space has been provided in accordance with the approved drawing. The space approved shall be retained for parking 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. Relevant Policies - Local Plan P4, DG1.
- 8 The development shall not be occupied until full details of both hardsurfacing and soft landscape works on the Black Horse Road frontage 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 initial occupation 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.
- 9 The first and second floor window(s) in the side elevation(s) of the new building 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 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. In the interests

of the amenities of adjoining neighbours. NPPF paragraph 17 bullet point 4.

- 10 No further window(s) shall be inserted at first floor level or above in the side elevation of the new building without the prior written approval of the Local Planning Authority.  
Reason: To prevent overlooking and loss of privacy to neighbouring occupiers. NPPF paragraph 17 bullet point 4.elevant Policies - Local Plan H11.
- 11 Irrespective of the provisions of Classes A, B and E of part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or any other alteration (including the erection of any ancillary building within the curtilage) of or to any dwelling house the subject of this permission shall be carried out without planning permission having first been obtained from the Local Planning Authority.  
Reason: In the interests of the amenities of adjoining neighbours. NPPF paragraph 17 bullet point 4.
- 12 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.

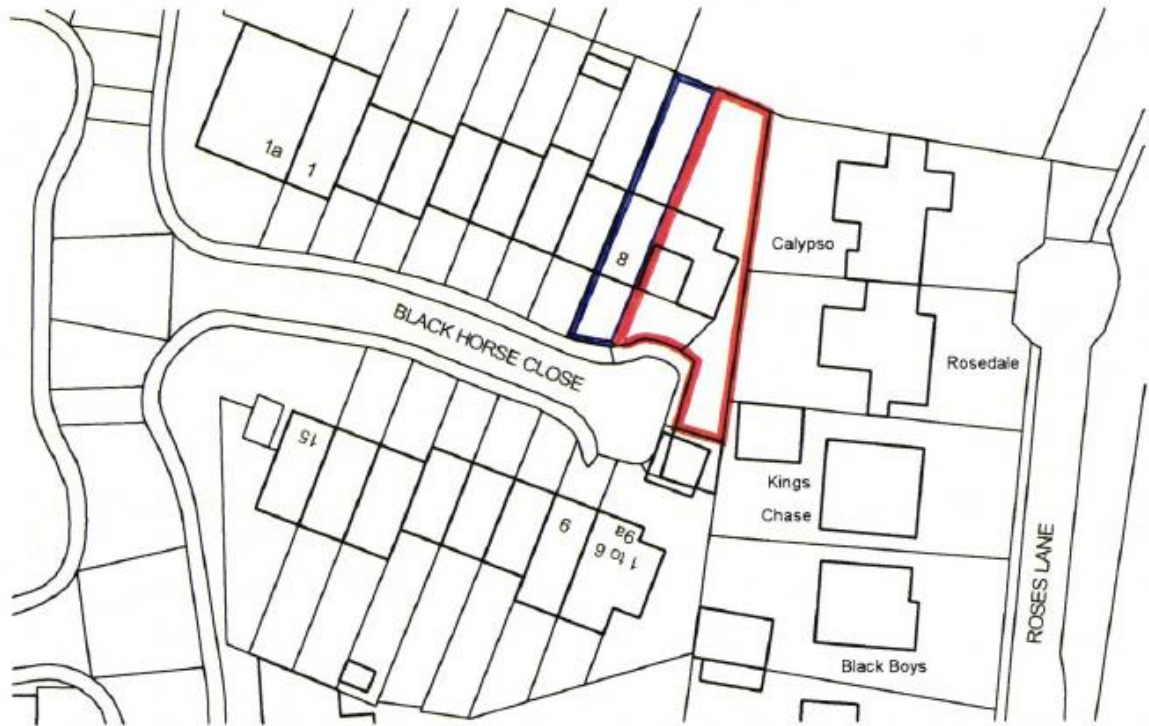
### **Informatives**

- 1 Construction Working Hours- Unless agreed with the Local Planning Authority in advance no construction work or demolition work shall be carried out or plant operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.
- 2 Collection during Construction and Demolition- - Unless agreed with the Local Planning Authority in advance There should be no collections from or deliveries to the site during the demolition and construction stages outside the hours of 0800 hours and 1800 hours on Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays..
- 3 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 measures should be incorporated to keep internal levels below LAeq (16h) 40dB.Applicants are invited to contact the Environmental Health Unit Environmental Protection Team on 01628 683830 for a copy of the aircraft noise insulation guidance notes.
- 4 The applicant and their contractor should take all practicable steps to minimise dust deposition, which is a major cause of nuisance to residents living near to construction and demolition sites. The applicant and their contractor should ensure that all loose materials are covered up or damped down by a suitable water device, to ensure that all cutting/breaking is appropriately damped down, to ensure that the haul route is paved or tarmac before works commence, is regularly swept and damped down, and to ensure the site is appropriately screened to prevent dust nuisance to neighbouring properties.
- 5 The applicant is advised to follow guidance with respect to dust control: London working group on Air Pollution Planning and the Environment (APPLE): London Code of Practice, Part 1: The Control of Dust from Construction; and the Building Research Establishment: Control of dust from construction and demolition activities.
- 6 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: 18/00253/FULL – Land at 8 Black Horse Close, Windsor

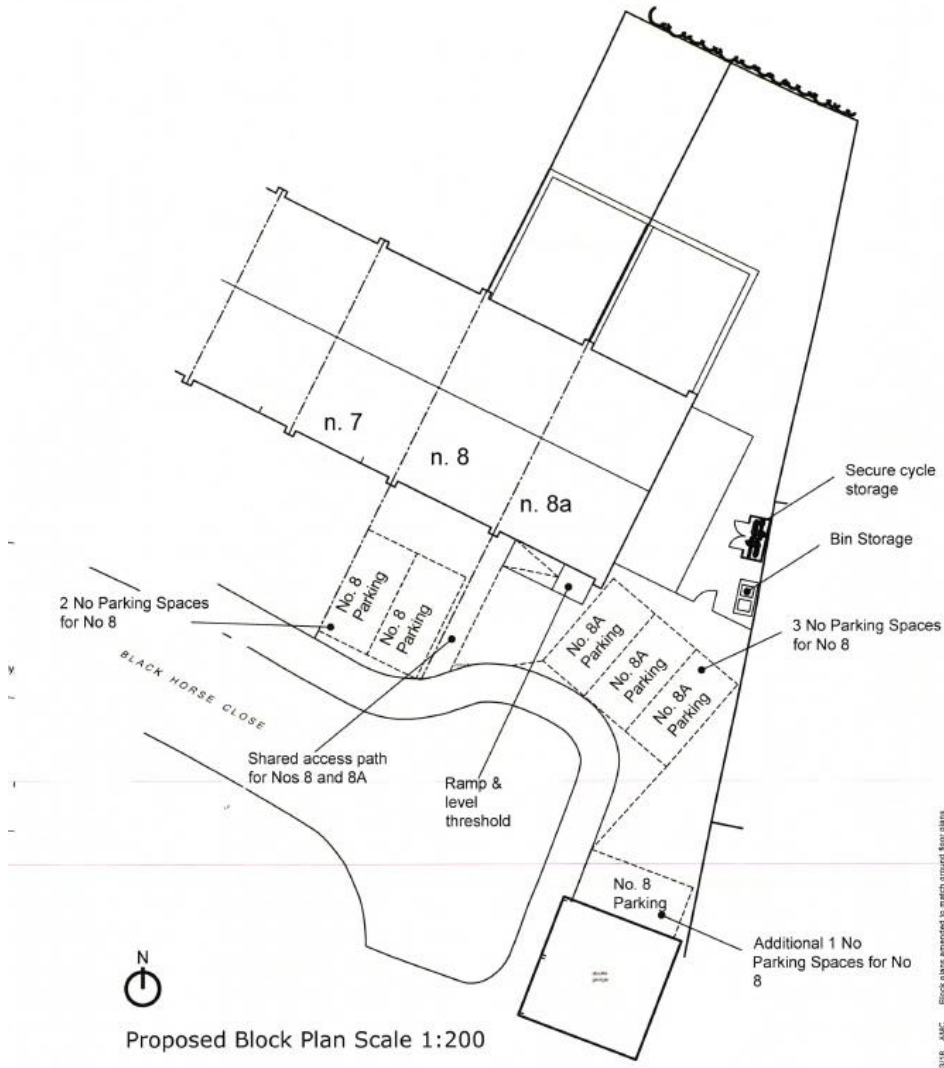


Ordnance Survey, (c) Crown Copyright 2018. All rights reserved. Licence number 100022432

Location Plan Scale 1:1250



APPENDIX B: 18/00253 – Land at Black Horse Close, Windsor



Proposed Block Plan Scale 1:200

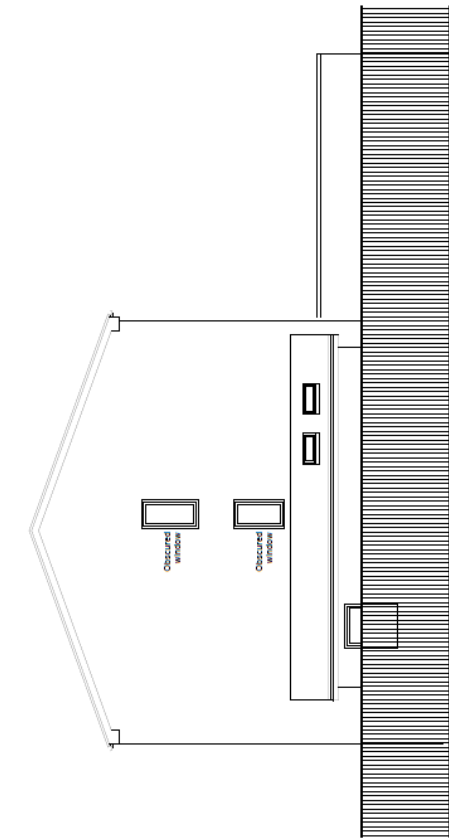
28 MAR 2018

18/00253

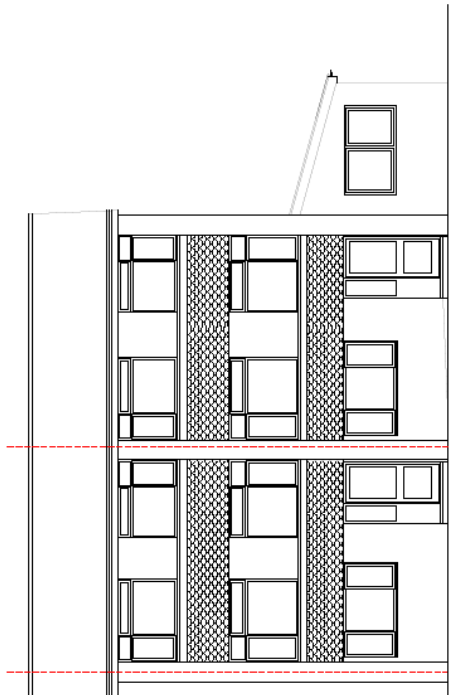
l  
m  
m  
m  
m

FOR PLANNING	Project	NEW DWELLING AT 8 BLACKHORSE CLOSE WINDSOR SL4 5QP	
	Title	EXISTING LOCATION AND BLOCK PLANS	
	Drawing Number	17A051/PL05	Revision B
	Date	JAN'18	Drawn GP
Rev	Date	By	Notes
B	23/01/18	AMC	Block plans amended to match ground floor plans
A	24/01/18	AMC	Bin store and cycle store shown

APPENDIX B: 18/00253 – Land at 8 Black Horse Close, Windsor.



Side Elevation Scale 1:100



No. 8a

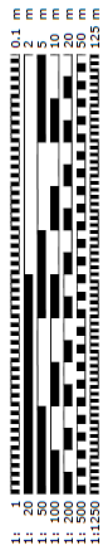
Front Elevation Scale 1:100



No. 8

No. 8a

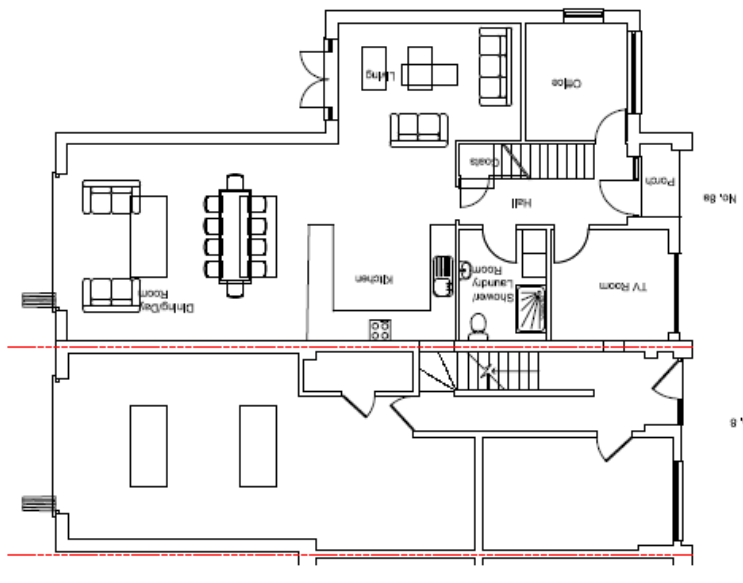
Rear Elevation Scale 1:100



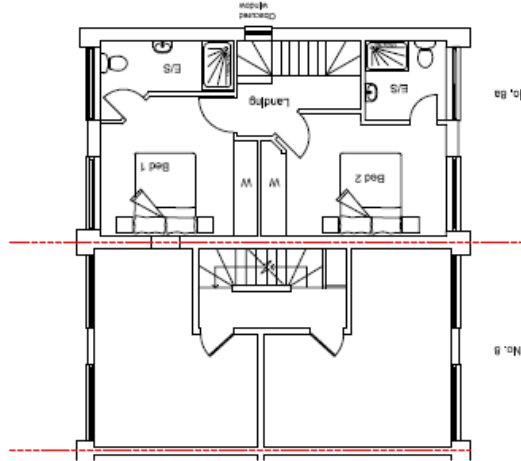
Project		NEW DWELLING AT 8 BLACKHORSE CLOSE WINDSOR SL4 5QP	
Title		PROPOSED ELEVATIONS	
Drawn By	Scale	Drawn Date	Drawn By
17A051/PL04	D	JAN 18	GP
1:100	A3		
Rev	Desc	By	NCB
A	15/01/2018	GP	First elevation amended
B	24/02/2018	AC	and second floor
C	23/03/2018	AC	Obscured windows added to the side elevation and side elevation amended to match G/F plan
D	02/04/2018	AC	Elevations amended to match plans

**artichoke** : architectural consultancy  
 71 Clewer Hill Road - Windsor - SL4 4DE  
 t: 01753 830 422 - m: 07783 318 035  
 chris.dale@artichoke-design.co.uk

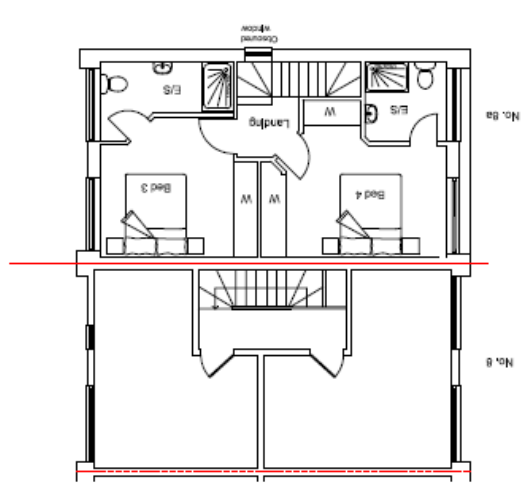
APPENDIX B: 18/00253/FULL – Land at 8 Black Horse Close, Windsor.



Ground Floor 1:100



First Floor 1:100



Second Floor 1:100

FOR PLANNING

Project: NEW DWELLING AT 8 BLACKHORSE CLOSE WINDSOR SL4 5QP

Client: NEW HOUSE PROPOSED PLANS

Drawn By: 17A051/PL03

Scale: A

Date: JAN'18

GP: 1:100

GP: A3

Checked: [Signature]

Checked: [Signature]



**artichoke** : architectural consultancy  
 71 Cliver Hill Road - Windsor - SL4 4DE  
 t: 01753 830 422 • m: 07793 318 035  
 artichoke@artichoke-design.co.uk

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 7

<b>Application No.:</b>	18/00961/FULL
<b>Location:</b>	4 - 5 Turks Head Court Eton Court Eton Windsor
<b>Proposal:</b>	Construction of mansard roof to create second floor to flat 2 and external alterations to existing building to include rendered exterior and alterations to fenestration.
<b>Applicant:</b>	Ms Quinlan
<b>Agent:</b>	Mr Duncan Gibson
<b>Parish/Ward:</b>	Eton Town Council/Eton With Windsor Castle Ward

**If you have a question about this report, please contact:** Briony Franklin on 01628 796007 or at [briony.franklin@rbwm.gov.uk](mailto:briony.franklin@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 The proposal seeks planning permission to construct a mansard roof above an existing flat roof, 2 storey building to create an additional storey. The proposal involves an increase in the overall bulk and height of the building and includes the insertion of some additional windows in the proposed mansard roof. The rest of the alterations are cosmetic and include the rendering of the building and changes to the fenestration. Whilst it is acknowledged that the alterations would substantially change the overall appearance of the building it is not considered that the proposal would have a detrimental impact on the character and appearance of the site itself or the locality in general and the alterations are considered to preserve and enhance the Conservation Area.
- 1.2 The application has been amended to delete a second floor bedroom window in the east elevation of the proposed mansard roof to help alleviate concerns raised by some residents relating to overlooking and loss of privacy. In addition the proposed full length windows/doors in the west elevation have been replaced with conventional windows. It is not considered that the proposal would result in any unacceptable harm to the living conditions of the neighbouring properties in terms of light, outlook and privacy.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- Councillor Alexander has requested the application is reported to Panel in the public interest, if it is to be recommended for approval.

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

- 3.1 The application site comprises a two storey, flat roofed building (numbers 4 and 5 Turks Head Court) with associated car parking which is accessed via Eton Court. It is understood that the building was originally two apartments (one on each floor) however in recent years the upper floor (apartment number 5) has been divided into six bedsits. The building is set back behind a similar two storey, flat roofed building which lies at the front of the site (numbers 6 and 7 Turks Head Court). The site shares its access with the flats at 6 & 7 Turks Head Court and the dwellings to the rear of the site, 1-3 Turks Head Court. Garages and parking serving these properties lie to the rear of the application site.
- 3.2 The site lies within the Eton Conservation Area and lies within a residential area to the west (rear) of the High Street. There are a variety of building types and architectural styles in the vicinity of the site. To the south of the site lies Atherton Court, a large 4 storey flatted development built in the 1960's. To the north lies a public car park and newly built 3/4 storey apartments, 'Regency House' and town houses. To the east of the site lie older residential properties including 1-3 Turks Head Court and properties fronting the High Street.

3.3 The site lies within Flood Zone 2 and 3.

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

4.1 It is proposed to construct a mansard style, zinc roof over the existing flat roofed building to create an additional storey. The first floor accommodation is intended to revert back to one apartment and the additional second floor space would extend the first floor apartment and provide 3 bedrooms and 2 bathrooms. The resulting building would accommodate an existing ground floor 2 bed apartment and a first/second floor 3/4 bed apartment. The height of the external walls would be increased from 5.7m to 6.7m to provide a parapet wall and the mansard roof would be set in from the outer walls and would include dormer windows in the north, east and west elevations. The whole building would be white rendered and the existing casement windows replaced with sash windows. The overall height of the building would be increased from 5.7m to 8.8m.

4.2 Vehicular access would remain unchanged and six car parking spaces are shown to be provided, close to the building.

4.3 There is no relevant planning history relating to this site.

#### 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

##### 5.1 National Planning policy Framework

- Section 6 - Delivering a wide choice of quality homes
- Section 7 – Good design
- Section 10 - Meeting the challenge of climate change, flooding and coastal change
- Section 12 – Preserving and enhancing the historic environment

##### Royal Borough Local Plan

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

Within settlement area	Highways and Parking	Development in Conservation Areas	Flooding	Area specific policies
DG1, H10, H11	P4, T5	CA1 & CA2	F1	ETN5

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)

##### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Housing Density	HO5
Historic Environment	HE1

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 Borough Local Plan submission version

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 details in the assessment below.

Significant weight is to be accorded to Borough Local Plan Submission Version policies SP2, SP3, HO5 and HE1 in this case. Lesser weight should be accorded to Borough Local Plan Submission Version policy NR1 due to the extent and nature of objections raised to it by representations on the Borough Local Plan Submission Version. The above application is considered to comply with the relevant policies listed within the Development Plan and those Borough Local Plan Submission Version policies to which significant weight is to be accorded.

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)

### **Eton Wick Neighbourhood Plan**

Issue	Neighbourhood Plan Policy
Housing developments	HD2, HD3
Parking	TI2
Flooding	EN3

- 5.3 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The neighbourhood plan has recently been agreed subject to modifications by an Examiner. The neighbourhood plan will now need to be subject to a local referendum. However at this advanced stage of its preparation significant weight can be afforded to its policies, subject to the modifications suggested by the Examiner.

### **Supplementary planning documents**

- 5.4 Supplementary planning documents adopted by the Council relevant to the proposal are:

- The Interpretation of Policy F1 (Area Liable to Flooding) Supplementary Planning Guidance (SPG) 2004

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

- 5.5 Other strategies or publications relevant to the proposal are:

- Eton Design Guidance – Appendix 1 of the Neighbourhood Plan
- RBWM Parking Strategy - view at: [https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning/13](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning/13)
- RBWM Strategic Flood Risk Assessment - view at: [https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning/6](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning/6)
- Eton Conservation Area appraisal - view at: [https://www3.rbwm.gov.uk/info/200207/conservation/666/conservation\\_areas](https://www3.rbwm.gov.uk/info/200207/conservation/666/conservation_areas)

## **6. EXPLANATION OF RECOMMENDATION**

- 6.1 The key issues for consideration are:



- i Impact on the Conservation Area
- ii Impact on the character and appearance of the site itself and the locality in general
- iii Impact on the living conditions of the neighbouring properties
- iv Flooding
- v Highways/parking

#### **i Impact on the Conservation Area**

- 6.2 Local Plan Policy CA2 advises that within a Conservation Area development should preserve or enhance the character or appearance of the area and requires extensions or alterations to existing buildings to be of a high design standard which is sympathetic in terms of its siting, proportion, scale, form, height, materials and detailing to adjacent buildings and the character of the area in general.
- 6.3 NPPF paragraph 126 advises that new development should make a positive contribution to local character and at paragraph 137 that opportunities for new development should be sought in Conservation Areas that enhance or better reveal the significance of the Conservation Area. Policy HE1 of the emerging borough local plan places similar emphasis on preserving and enhancing the historic environment in a way which is appropriate to its significance.
- 6.4 Specific to Eton, Policy HD3 of the emerging neighbourhood plan states that 'In the Conservation Area, or well-established areas sensitive to change, the design of new development should match details such as storey heights, window design, window styles/heights, and groundwork and paving, where these contribute to historic distinctiveness and identity'. The application site is situated within Eton Conservation Area and lies to the west of the High Street in the character area named "The residential areas to the east and west of the high street". The buildings in this area show a mix of styles with a proportion being modern residential developments from the 20<sup>th</sup> Century and are a result of the expansion of Eton High Street. The application property is a modern flat roofed, two storey building. Atherton Court, a flat roofed, four storey 1960's flatted development lies to the south of the site. Regency House, a recently built 3/4 storey apartment building with a mansard roof and dormers set behind a brick parapet lie to the north.
- 6.5 The proposal seeks to add a mansard style roof, replace existing windows with sash windows and render the outside of the building. The existing appearance of the building is somewhat bland and has little architectural merit. It is considered that the alterations would improve the overall appearance of the building and would be sympathetic and reflect the form, massing, materials and height of surrounding buildings. As such it is not considered that the proposal would appear out of keeping in this location, being surrounded by other more modern developments of varying heights, some of which have mansard roofs. The proposal would respect the built and historic environment and the design would maintain and contribute to the locality.
- 6.6 The proposed alterations would preserve and enhance the Conservation Area subject to the approval of the external materials and more details being submitted relating of the windows, doors, sill and header designs. These details can be satisfactorily dealt with by condition and it is therefore considered that the proposal is acceptable from a Conservation Area aspect.

#### **ii Impact on the character and appearance of the site itself and the locality in general**

- 6.7 Local Plan Policy DG1 sets out the design guidance for new development and bullet point 4 of the Core Planning Principles at paragraph 17 of the NPPF states that planning should seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings. As set out above the site lies behind the established High Street frontage and

close to more modern housing development. The existing flat roof building is a rather bland, unattractive looking building set behind 6 & 7 Turks Head Court, of very similar design, which fronts onto the road. The building is set well back from the road frontage and only limited views of the building are available from Eton Court. The southern (flank) elevation is a blank elevation set up against the southern boundary of the site and the building is therefore readily visible when viewed from the south of the site from Atherton Court. The building is also visible from the surrounding residential properties to the north and east and from the adjacent public car park. The existing building has no architectural merit and it is considered that the proposed alterations would improve the overall appearance of the building and would not be dissimilar in terms of design to the adjacent 3/4 storey apartment building 'Regency House' which also has a mansard roof and dormers. There are a variety of building styles and heights in the vicinity of the site. It is considered that the design of the resulting building, which would have an overall height of 8.8m, would not appear out of keeping with the scale, massing, architectural vernacular and materials of the surrounding buildings and would not detract from the general character and appearance of the site itself or the locality in general.

### **iii Impact on the living conditions of the neighbouring properties**

- 6.8 It is important to carefully consider the proposal's impact on the living conditions of the neighbouring properties in terms of light, outlook and privacy. The existing building is sited 11 metres from the 2 storey frontage building, 6 & 7 Turks Head Court, and 10.5m from the 4 storey block of flats, Atherton Court, situated to the south of the site. The rear gardens of 3 Turks Head Court and number 97 High Street lie to the east and south east of the site. A public car park lies to the north of the site. The new apartments 'Regency House' which includes a first floor rear terrace lie to the north of the site.
- 6.9 It is considered that sufficient distance would be maintained between the proposed building and the neighbouring properties and it is not considered that the proposal would result in an unacceptable loss of light or outlook from any neighbouring properties. The proposed replacement windows in the existing building would be positioned in very similar positions to the existing windows and would not result in any greater level of overlooking or loss of privacy to the neighbouring properties. The application has been amended to replace the proposed ground and first floor full length windows/doors in the west elevation with conventional sash windows to alleviate concerns with overlooking and loss of privacy to 6 & 7 Turks Head Court. In addition the bedroom window in the eastern elevation of the mansard roof closest to the rear garden of number 97 High Street and number 3 Turks Head Court has been deleted to alleviate concerns with overlooking and loss of privacy to these properties. A distance of approximately 23 metres would be maintained between the windows in the northern elevation of the proposed mansard roof and the first floor roof terrace to the rear of Regency House and no windows are proposed to be inserted in the southern elevation. Given the distances that would be maintained and this town centre location it is not considered that the revised proposal would introduce an unacceptable level of overlooking or loss of privacy to any of the neighbouring properties.

### **iv Flooding**

- 6.10 The Environment Agency Indicative Floodplain map and the Strategic Flood Risk Assessment shows that the site lies within Flood Zone 3 and therefore has a 'high probability' of flooding i.e. a 1 in 100 or greater annual probability of river flooding (>1%). A Flood Risk Assessment has been submitted with the application.
- 6.11 Local Plan policy F1 requires development should not: 1) impede the flow of flood water; 2) reduce the capacity of the flood plain to store flood water; or 3) increase the number of people or properties at risk of flooding. In this respect the proposal would not involve the creation of any new building footprint and there is no potential for the displacement or impedance of the flow of flood water. There is therefore no reduction in the capacity of the flood plain to store flood water. Whilst the proposal would provide more accommodation it would not increase the number of people or properties at risk of flooding since the 3 /4 bed apartment would replace 6 bedsits. No

new hard surfaced areas are proposed so there will be no net change in surface water run-off. As such it is not therefore considered that the proposal would increase the risk of flooding.

### **v Highways/parking**

- 6.12 The property currently benefits from a vehicular access off Eton Court Road which serves the existing flats at 4 & 5 and 6 & 7 Turks Head Court and 1-3 Turks Head Court situated at the rear. The proposal would not affect the existing access arrangements or visibility splays. The site lies within 800m from Windsor and Eton Riverside and Windsor and Eton Central train station and the site is located within an accessible location.
- 6.13 The building currently consists of a 2 bedroom flat on the ground floor and 6 bedsits on the first floor. Drawing number 2486-PL-103 shows that the existing 2 bedroom flat would be retained on the ground floor and the existing bedsits will be replaced by one 3/4 bed apartment. The proposed site plan (2486-PL-101) shows that 2 car parking spaces will be provided for the existing 2 bedroom flat and 3 car parking spaces will be provided for the proposed 3/4 bedroom flat. An additional visitor space is also shown to be provided. This complies with the parking standard. The existing turning facilities will be retained on site to enable a vehicle to enter and exit the site in a forward gear.
- 6.14 Two flats of this size has the potential to generate 10 to 20 vehicle movements per day and the removal of the bedsits should result in a reduction in vehicle movements per day. The proposal is acceptable subject to the imposition of a condition to ensure the parking/turning area is provided and retained.
- 6.15 Some of the residents have referred to a right of way which exists over the application site to gain access to 1 -3 Turks Head Court at the rear and concern have been raised relating to parked cars blocking this right of way. A right of way is a legal/civil issue and is not a material planning consideration. However the proposed parking for numbers 4 & 5 would not impinge on the access route through the site nor on the parking for the other properties. Also with the removal of the existing 6 bedsits and the provision of one, 3/4 bed flat the number of people living at the property is likely to decrease. It is however considered that a condition to remove permitted development rights to prevent the premises from being used as an HMO would be appropriate in this case to ensure that adequate car parking can be provided. In addition a condition to mark out the parking spaces could also be beneficial in this case. On this basis it is considered that the proposal is acceptable on parking or highway grounds.

### **7. Other Material Considerations**

- 7.1 Concern has been raised that the proposal could increase the impact on local infrastructure. However with the removal of the 6 bedsits it is considered that the number of people residing at the property is likely to decrease. It is not considered that the proposal would place an excessive strain on local infrastructure in terms of highways, community facilities, utilities and parking.
- 7.2 The issue of whether the foundations of the building can take an extra storey would need to be assessed under Building Regulations and is not a material planning consideration.

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

- 8.1 The development is not CIL liable since the gross internal floor area of the proposed extension would not exceed 100 sq.m.

### **9. CONSULTATIONS CARRIED OUT**

#### **Comments from interested parties**

Extensive neighbour notification has been carried out and a total of 47 neighbours have been notified directly of the application.

The planning officer posted a notice advertising the application at the site on 18<sup>th</sup> April 2018 and the application was advertised in the Maidenhead & Windsor Advertiser on 26<sup>th</sup> April 2018.

6 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Loss of light to 7 Turks Head Court and Flat 31 Atherton Court	6.4
2.	Architectural unity of the flat roofed building will be spoilt – need to refuse poor development to protect the character and quality of the Conservation Area.	6.2 & 6.3
3.	7 people already living in flat number 5 and proposal will increase number of people living in property.	6.6
4.	Increased vehicle movement onto Eton Court – sightlines at exit have been hindered by 2m high fence.	6.6
5.	Increased impact on local infrastructure.	7.1
6.	No details relating to height, size and materials provided and therefore difficult to assess proposal.	4.1
7.	Number 95-96 High Street has a number of windows and a rear roof terrace that face 4-5 Turks Court.	6.4
8.	Window in east elevation would overlook number 97 High Street to an unacceptable degree.	6.4
9.	Proposal will negatively affect surrounding properties with no benefit to Eton Conservation Area.	6.2 & 6.4
10.	Proposal will block light and overlook windows and garden at 3 Turks Head Court.	6.4
11.	Increase in living space will impact on number of cars trying to access narrow drive.	6.6
12.	Problems with cars blocking right of way to 1 & 3 Turks Head Court.	6.6
13.	Access to 1,2 & 3 Turks Head Court for emergency vehicles, lorries etc. would be impossible.	6.6
14.	Can foundations take the extra storey?	7.1
15.	Loss of privacy to garden of 1 Turks Head Court.	6.4

### Statutory consultees

Consultee	Comment	Where in the report this is considered
Conservation Officer	The proposed alterations will not cause harm to the character or appearance of the Conservation Area subject to suitable conditions being imposed.	6.2
Highway Section	No objection subject to condition/informative	6.6

### Other consultees

Consultee	Comment	Where in the report this is considered
Parish Council	Concerns were expressed over fenestration with regard to overlooking neighbouring properties. Additionally, two complaints received from residents of High Street properties that are adjacent to the property who were not informed of this application.	6.4

## 9. APPENDICES TO THIS REPORT

- Appendix A - location plan and proposed site plan
- Appendix B – existing floor plans and elevations
- Appendix C – proposed plans and elevations

## 10. 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 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.
- 3 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: Reason: In the interests of the visual amenities of the area. Local Plan Policy CA2
- 4 Prior to the installation of proposed windows and doors, details of the external finishes of the windows and doors, together with detailed drawings of the windows, doors, Sill and header designs (including drawings showing typical depth of reveals) shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: Reason: In the interests of the visual amenities of the area. Local Plan Policy CA2
- 5 No part of the development shall be occupied until the 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
- 6 There shall be no raising of existing ground levels on the site.  
Reason: To prevent the increased risk of flooding elsewhere due to impedance of flood flows and reduction of floodwater storage capacity. Relevant Policies - Local Plan F1.
- 7 No development shall take place until samples and/or a specification of all the finishing materials to be used in any hard surfacing on the application site have been submitted to and approved in writing by the Local Planning Authority. The hardsurfacing shall be made of a porous material and thereafter undertaken in accordance with the approved scheme and retained.  
Reason: In the interests of the visual amenities of the area and to reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with

Requirement 5 of the Royal Borough of Windsor & Maidenhead Sustainable Design & Construction Supplementary Planning Document.. Relevant Policies - Local Plan DG1 and F1

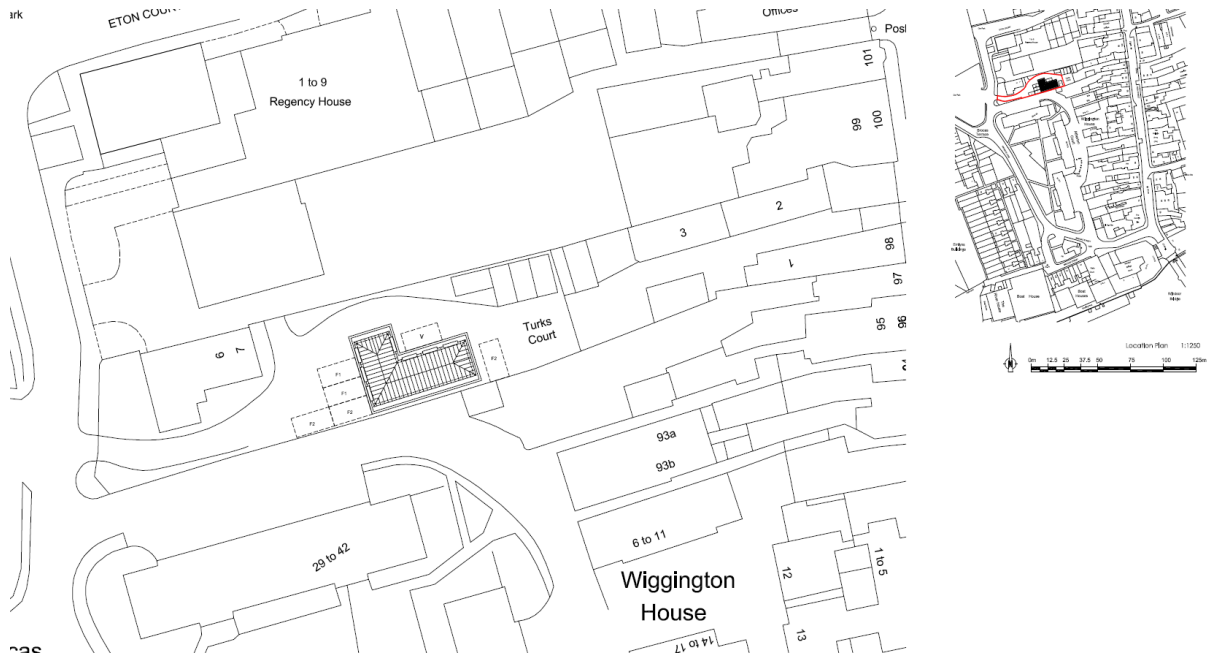
- 8 Irrespective of the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the development shall not be used for a use falling within Use Class C4 (houses in multiple occupation) without planning permission having first been obtained from the Local Planning Authority.

Reason: To ensure that adequate car parking is maintained and provided on site. Relevant Policies - Local Plan P4.

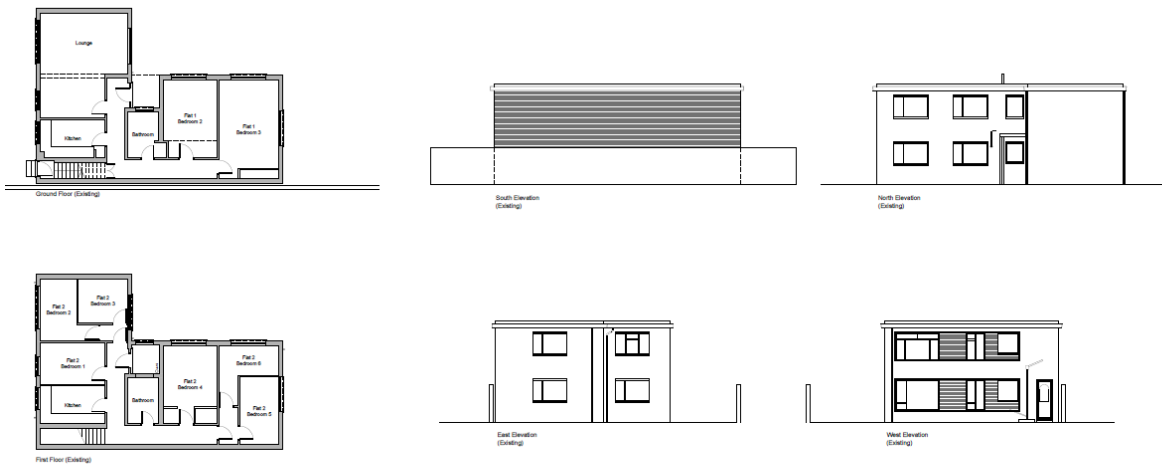
### **Informatives**

- 1 The attention of the applicant is drawn to the Berkshire Act 1986, Part II, and 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 No builder's 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.

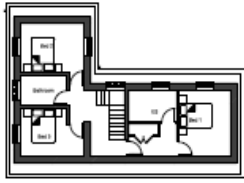
## APPENDIX A – SITE PLAN



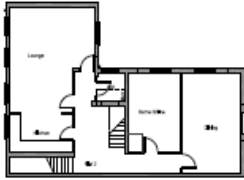
## APPENDIX B – EXISTING FLOOR PLANS & ELEVATIONS



# APPENDIX C – PROPOSED FLOOR PLANS & ELEVATIONS



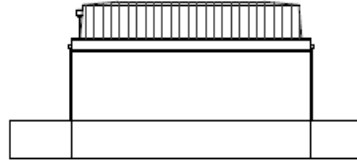
Second Floor Proposed



Third Floor Proposed



Ground Floor Proposed



South Elevation Proposed



North Elevation Proposed



East Elevation Proposed



West Elevation Proposed



## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

20 June 2018

Item: 8

<b>Application No.:</b>	17/03350/VAR
<b>Location:</b>	Former Windsor Rackets And Fitness Club Helston Lane Windsor
<b>Proposal:</b>	Variation of Condition to substitute amended plans for the approved plans for the Demolition of existing building and erection of a Care Home to provide a 72 bed care home and 58 close care suites (Class C2 use) with replacement accommodation for Mencap and Red Cross, associated parking and vehicular access onto Helston Lane as approved under planning permission 11/00403/FULL and amended under 17/03733/NMA (to add the approved plans as a condition).
<b>Applicant:</b>	Mr Hughes
<b>Agent:</b>	Mr John Montgomery- Tanner And Tilley Development Consultant
<b>Parish/Ward:</b>	Windsor Unparished/Clewer North Ward
<b>If you have a question about this report, please contact:</b> Claire Pugh on 01628 685739 or at <a href="mailto:claire.pugh@rbwm.gov.uk">claire.pugh@rbwm.gov.uk</a>	

### 1. SUMMARY

- 1.1 This is a section 73 variation application which seeks to vary the condition relating to approved plans on the original permission, so that new plans are approved.
- 1.2 As this is a section 73 application, the principle of the development cannot be considered. However consideration can be given to matters that arise from the proposed changes compared to the previously approved plans.
- 1.3 In this case, the changes to the appearance of the elevations of the building (particularly the eastern elevation) is considered to be of a lower quality design than the consented scheme, however, the need for the changes has been set out and on balance, in the overall context of the development, the amended appearance is considered to be acceptable.
- 1.4 The external terraces (which would be made bigger) are not considered to result in any additional significant overlooking compared to the previously approved scheme.

<b>It is recommended the Panel grants planning permission with the conditions listed in Section 11 of this report.</b>
--

### 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 lies to the west of Royal Windsor Way, north of Clarence Road and south of (and accessed from) Helston Lane on the western side of Windsor, near to the Fountains Roundabout.
- 3.2 The site formerly accommodated the Windsor Squash and Rackets Club, comprising a modern building of brick, slate and flat roofed elements of a combination of three and two storey height. Further single storey buildings on the site accommodated offices and facilities for the Red Cross, and for Mencap. All the buildings on the site were cleared in October 2016. Works of site excavation have been completed and the building works are now substantially complete.

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

<b>Application Reference</b>	<b>Description</b>	<b>Decision and Date</b>
08/03027/FULL	Demolition of existing building and erection of care home for the elderly (C2 use) comprising 58 care suites with parking, access and landscaping and replacement facilities for Red Cross and Mencap	Permitted 25.02.2010
11/00403/FULL	Demolition of existing building and erection of a care home to provide a 72 bed care home and 58 close care suites (C2 use) with replacement accommodation for Mencap and Red Cross with associated parking and vehicular access onto Helston Lane.	Permitted 17.01.2012
14/03890/NMA	Application for approval of a non-material amendment (revised plans and details) to development approved under 11/00403/FULL.	Approved 06.01.2015
14/03908/CONDIT	Details required by various conditions (including soft and hard landscaping) on 11/00403/FULL	Approved 06.01.2015
14/04049/LEG	Variation of legal agreement governing development approved under 11/00403/FULL (timing of contribution payments)	Application Withdrawn
16/01533/VAR	Demolition of existing building and erection of a care home to provide a 72 bed care home and 58 close care suites (C2 use) with replacement accommodation for Mencap and Red Cross with associated parking and vehicular access onto Helston Lane without complying with condition 6 (access road)	Permitted 17.30.2017
16/03099/NMA	Application for approval of a non-material amendment (revised plans and details) to development approved under 11/00403/FULL.	Refused 02.03.2017
16/03438/FULL	The erection of five additional close care suites at fourth floor level	Permitted on the 4 <sup>th</sup> May 2018.

4.1 Section 73 of the Town and Country Planning Act (as amended) (this variation application) specifically excludes the reconsideration of issues other than those covered by the conditions that are the subject of this application.

This application seeks to vary planning permission 11/00403/FULL, as amended by 17/03733/NMA, to allow changes to the design. The main changes to the approved design (in comparison with the consented drawings under Non material amendment reference 14/03890/NMA) are:

- Increase in height to part of the building at the southern end of the building (facing the slip road).
- Changes to fenestration
- Changes to the design of the central part of the building, facing the slip road, with the central glazed detailing removed
- Changes to the use of materials (brick and render at different parts of the building).
- Changes to the car parking arrangement at basement level (no reduction in car parking spaces) the refuse area is moved to ground floor level
- New covered entrance to lobby (to the rear- western elevation)
- Increase terrace area at second floor level (to the southern elevation of the building)
- Increase to the terrace area at third floor level (at the southern elevation of the building)
- Terrace area to increase at fourth floor level

## 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

### 5.1 National Planning Policy Framework Sections

- 6 and 7 (detailing the presumption in favour of sustainable development),
- 4 (Promoting sustainable travel),
- 6 (Delivering a wide choice of high quality homes),
- 7 (Requiring good design),
- 10 (Meeting the challenge of climate change, flooding and coastal change)
- 11 (Conserving and enhancing the natural environment) of the NPPF 2012.

### Royal Borough Local Plan

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

Within settlement area	Highways and Parking	Environment
DG1,CF1, R7	P4, T5,	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)

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3

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 details 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

### 5.3 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment – view at:

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)

## 6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Design
- ii Neighbouring Residential Amenity

### **Design**

6.2 It is considered that the removal of the central glazing feature on the elevation facing the slip road (eastern elevation) together with the other changes proposed to the elevations does reduce the design quality of the scheme compared to what was approved. The central glazing feature in the previously approved scheme provided a visual break in what is large building. However, the applicant explains that this change to this elevation of the building is needed owing to the requirement (in respect of party wall requirements) to provide a structural separation between the close care units and care beds.

6.3 The building is large and spans much of the site, however, given the site is curved and the building is stepped across the site, its mass is broken up. The principle of having a building of this scale and mass at this location has already been established in the original permission. On balance, the changes to the building are considered to be acceptable. The proposal is considered to comply with Policy DG1 of the Adopted Local Plan, and with Policies SP2 and SP3 of the emerging Borough Local Plan (which are given significant weight).

### **Neighbouring Residential Amenity**

6.4 The areas of the external terraces will increase above what was previously approved, however, it is not considered that this enlargement in the area of the terraces will increase levels of overlooking significantly from what was approved in the original planning permission into the rear garden of number 151 Clarence Road (to the west of the application site) or any other neighbouring residential properties.

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

7.1 The development is CIL liable, however, the floorspace is not increasing above that in the previously approved plans, and so CIL is not applicable in this variation application.

## **8. Other considerations.**

8.1 A deed of variation has been sealed which links this Variation application back to the legal agreement that was entered into for the original planning permission.

## **9. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

No comments received from the 21 neighbouring properties notified, or from the site notice or newspaper advert. The description was changed to reflect this application sought to substitute the approved plans; this new description was publicised by newspaper, site notice and notifying neighbours.

### **Other consultees**

Consultee	Comment	Where in the report this is considered
Highways.	Offer no objection, subject to conditions	Noted, however, conditions can only be added if they relate to matters that arise as a result of the changes to the proposed in the S73
Lead Local Flood Authority	Have no made comment on the amended description or amended plans.	Noted.
Environmental Protection	Offer no objection.	Noted
Council's Tree Officer:	<p><i>A British Standard 5837 tree survey should be submitted, including details of level changes. This would provide the necessary detail to accurately determine the full impact of the scheme on existing trees.</i></p> <p><i>There is insufficient space amongst the proposed parking to enable a suitable replacement planting scheme to take place.</i></p> <p><i>Further tree loss, to that which was allowed under the approved scheme, and the loss of this area of verge, would be harmful to the amenities of the site and have a compounded adverse impact on the appearance of the local area.</i></p> <p><i>In the absence of a BS tree survey, I recommend a precautionary approach is taken and the application be refused on N6, DG1 and H10.</i></p>	Noted, however, the changes in this scheme are not considered to have significantly worsen the impact on the soft landscaping/trees. Previously, a new sewer had to be installed on the eastern part of the site, which prevents landscaping in this area.
Berkshire Archaeology:	<i>Thank you for consulting Berkshire Archaeology regarding the above application. Having reviewed the supporting documentation, Berkshire Archaeology has no comment to make.</i>	Noted.

## 10. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B – Previously consented plans
- Appendix C – Proposed plans

## 11. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED REASONS

- 1 The development shall be constructed and retained in accordance with the materials as specified on the External Material Schedule dated 8th November 2017. (previously condition 2 of planning permission 11/00403)  
Reason: In the interests of the visual amenities of the area. Relevant Policy DG1.
- 2 Other than where may be indicated on the approved drawings, there shall be no raising of existing ground levels on the site. (previously condition 3 of planning permission 11/00403)  
Reason: To prevent the increased risk of flooding due to impedance of flood flows and reduction of floodwater storage capacity. Relevant Policies - Local Plan F1.
- 3 Any walls or fencing constructed in or on the boundaries of the site shall be designed to be

permeable to flood water in accordance with a drawing that has first been submitted to, and approved in writing by, the Local Planning Authority. The walls or fencing shall be erected and maintained as approved. (previously condition 4 of planning permission 11/00403)

Reason: To prevent obstruction to the flow and storage of flood water, with a consequent increased risk of flooding. Relevant Policies - Local Plan F1.

- 4 Prior to the substantial completion of the development details of both hard and soft landscape works, shall be 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. (previously condition 5 of planning permission 11/00403)

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.

- 5 The development shall not be occupied until the access has been constructed in accordance with details that have been approved under ref: 14/03908/CONDIT, unless any variation is first agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details. (previously condition 6 of planning permission 11/00403)

Reason: In the interests of road safety. Relevant Policies - Local Plan T5.

- 6 The development shall be undertaken in accordance with the Construction Management Plan approved under permission 14/03908/CONDIT. (previously condition 7 of planning permission 11/00403)

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

- 7 No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with a layout as shown on drawings 8987\_TE\_12-001-M and 8987\_TE\_13-006-F. The spaces approved shall be kept available for parking and turning in association with the development. (previously condition 8 of planning permission 11/00403)

Reason: To ensure that the development is provided with adequate parking and turning 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.

- 8 The visibility splays shall be provided in accordance with the details approved under permission 14/03908/CONDIT. (previously condition 9 of planning permission 11/00403)

Reason: In the interests of highway safety. Relevant Policies - Local Plan T5.

- 9 The existing access to the site of the development shall be stopped up and abandoned immediately upon the new access being first brought into use. The footways and verge shall be reinstated before the development is first occupied in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. (previously condition 10 of planning permission 11/00403)

Reason: In the interests of highway safety and of the amenities of the area. Relevant Policies - Local Plan T5, DG1.

- 10 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. (previously condition 11 of planning permission 11/00403)

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.

- 11 The rating level of the noise emitted from the site shall be lower than the existing background level (to be measured over the period of operation of the proposed plant and equipment and over a minimum reference time interval of 1 hour in the daytime and 5 minutes at night) by at least 10dB(A). The noise levels shall be determined 1m from the nearest noise-sensitive premises. The measurement and assessment shall be made in accordance with BS 4142: 1997 'Method for rating industrial noise affecting mixed residential and industrial area'. (previously condition 12 of planning permission 11/00403)

Reason: To protect the residential amenities of the area. Relevant Policy Local Plan NAP3.

- 12 The ventilation and filtration equipment shall be undertaken in accordance with the details approved under permission 14/03908/CONDIT. (previously condition 13 of planning permission 11/00403)

Reason: To protect the amenities of the area. Relevant Policy Local Plan NAP3.

- 13 The development shall be undertaken in accordance with the acoustic measures approved under permission 14/03908/CONDIT. (previously condition 14 of planning permission 11/00403)

Reason: To ensure an acceptable living environment for future occupiers. Relevant Policies Local Plan NAP2, H10.

- 14 The sustainability measures shall be undertaken in accordance with the details approved under permission approved under permission 14/03908/CONDIT (previously condition 15 of planning permission 11/00403)

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with the Royal Borough of Windsor & Maidenhead Sustainable Design & Construction Supplementary Planning Document.

- 15 The sustainability measures shall be undertaken in accordance with the details approved under permission 14/03908/CONDIT (previously condition 16 of planning permission 11/00403)

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with the Royal Borough of Windsor & Maidenhead Sustainable Design & Construction Supplementary Planning Document.

- 16 The public art work shall be undertaken in accordance with the detail approved under permission 14/03908/CONDIT. (previously condition 17 of planning permission 11/00403)

Reason: To accord with the provisions of the Councils adopted Supplementary Planning Document - Planning Obligations and Developers Contributions - Policy IMP1.

- 17 The Lleylandi hedge along the boundary with Petworth Court shall be retained and maintained and, if it is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective it shall be replaced within the first planting season following it being removed, uprooted or destroyed or dies, or becomes seriously damaged or defective either in whole or in part in accordance with a scheme of replacement tree planting that has 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. (previously condition 18 of planning permission 11/00403)

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.

- 18 Prior to the first use of the roof gardens hereby permitted, the landscaping to these roof gardens shall be submitted to and approved in writing by the Local Planning Authority. (previously condition 19 of planning permission 11/00403)

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 adjacent dwellings. Relevant Policies - Local Plan DG1.

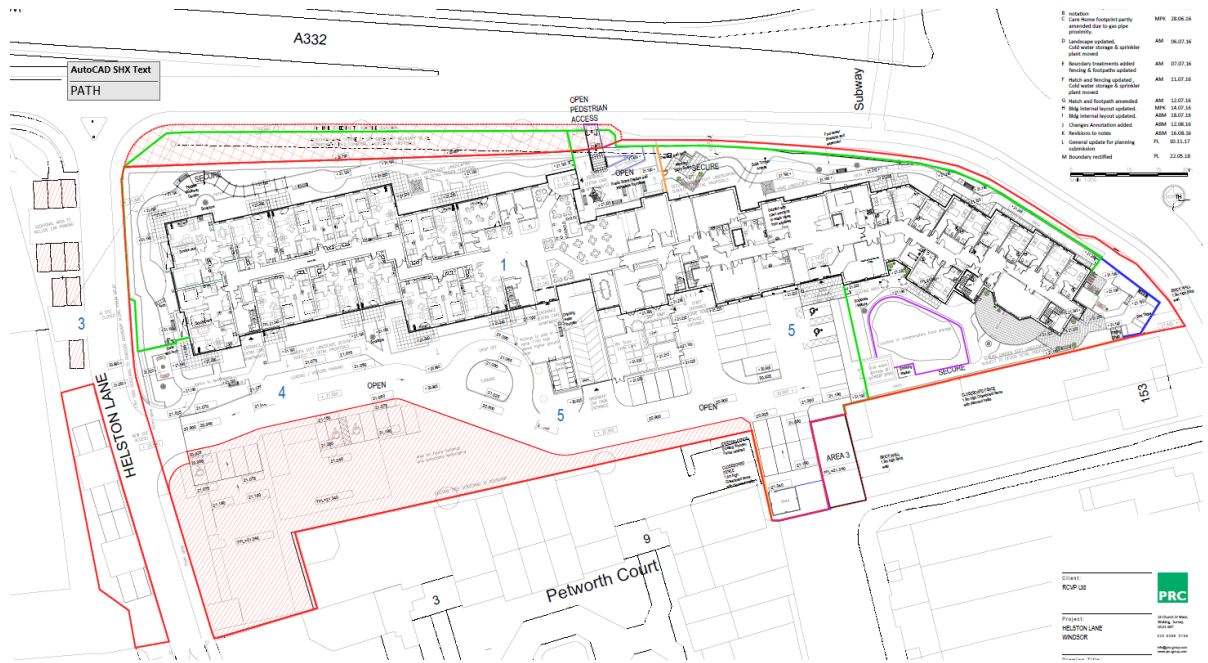
- 19 Should the car parking details approved under Condition 7 (listed condition 8 in original permission) include the provision of car parking spaces on the northern side of Helston Lane details of soft landscape works with mature hedgerow species around the car parking area shall be submitted to, and approved in writing by, the Local Planning Authority. These works shall be carried out as approved within the first planting season following the substantial completion of the car parking spaces and thereafter 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. (previously condition 20 of planning permission 11/00403)  
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.
- 20 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 should be read in conjunction with the Deed of Variation dated 14th May 2018.



## Appendix A- Location plan



## Appendix B- Previously approved elevations



Rev	Description	Date
Rev A	Issue for RFP	12/2010
Rev B	Issue for RFP	12/2010
Rev C	Issue for RFP	12/2010
Rev D	Issue for RFP	12/2010



WEST ELEVATION



NORTH WEST ELEVATION

Client		
RCP/LM		
Project		11 Wilson Road Windsor, Ontario N2L 2K5
Drawing Title		Elevations Main Building West, Northwest
1:200 05 February 2011	Prepared by Design Date	Checked by Date Approved by Date

# Appendix C- Proposed plans

Revisions	Date/Drawn	Drawn
1. Issue for planning approval	27.08.2019	PRC
2. Issue for planning approval	28.08.2019	PRC
3. Issue for planning approval	28.08.2019	PRC
4. Issue for planning approval	28.08.2019	PRC
5. Issue for planning approval	28.08.2019	PRC
6. Issue for planning approval	28.08.2019	PRC
7. Issue for planning approval	28.08.2019	PRC
8. Issue for planning approval	28.08.2019	PRC
9. Issue for planning approval	28.08.2019	PRC
10. Issue for planning approval	28.08.2019	PRC



CLIENT  
**RCVP Ltd**

PROJECT  
**HELSTON LANE  
 WINDSOR**

DRAWING TITLE  
**Elevations Main Building  
 West, North West**

ARCHITECT  
**PRC**  
 20 Church Lane,  
 Woking, Surrey,  
 GU24 0EP  
 01483 881 900  
 info@prcgroup.com  
 www.prcgroup.com

Change following NIM planning permission (App. No. 14/01080)

1. The architect shall be responsible for obtaining all necessary permits and approvals for the proposed development.

NO.	DESCRIPTION	DATE	STATUS
1	Initial design concept	01/20	Final
2	Site plan and zoning application	02/20	Final
3	Architectural drawings	03/20	Final
4	Permitting and construction	04/20	Final
5	Construction and completion	05/20	Final
6	Final design and construction	06/20	Final
7	Final design and construction	07/20	Final
8	Final design and construction	08/20	Final
9	Final design and construction	09/20	Final
10	Final design and construction	10/20	Final



1 EAST ELEVATION  
1:200



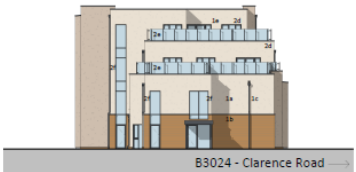
2 NORTH ELEVATION  
1:200

Changes following NMA planning permission (App. No. 16/01880)

Client:	RCVP Ltd
Project:	HELSTON LANE WINDSOR
Drawing Title:	Elevations Main Building Red Cross, East, North



1 SOUTH ELEVATION  
1:200



2 SOUTH WEST ELEVATION  
1:200