

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
PANEL UPDATE

07/01/2019

Windsor Urban Panel

Application No.:	18/03027/FULL
Location:	Windsor Physiotherapy Essex Lodge 69 Osborne Road Windsor SL4 3EQ
Proposal:	Construction of new building comprising 11 x two bedroom and 3 x one bedroom flats with associated parking, alteration to existing access and new bin enclosure.
Applicant:	Mr Howells
Agent:	Not Applicable
Parish/Ward:	Windsor Unparished/Park Ward

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

1. SUMMARY

- 1.1 Further comments have been received from the Lead Local Flood Authority in response to the additional drainage information provided. They have recommended refusal of the application in the absence of further information.

It is recommended the Panel adds a further reason for refusal listed in section 13 of the main report. The additional reason for refusal is set out in section 3 below.

2. ADDITIONAL INFORMATION

- 2.1 In response to the drainage information supplied by the applicant the LLFA has provided additional comments. Whilst the proposed drainage strategy indicates that there will be a reduction from the existing surface water discharge rate, which is acceptable in principle, it is indicated in the below ground drainage general arrangement drawing that the base level of the attenuation tank (22.38m AOD) will be lower than the invert level of the downstream manhole (22.61m AOD). It is therefore unclear how the bottom 230mm of storage within the tank will drain and unclear if sufficient storage volume is available. An amended drawing is required to demonstrate that the entire network is positively drained. In addition the Drainage Strategy general arrangement drawing indicates that the proposed Hydro-Brake will restrict discharge to 6.5l/s. However within the MicroDrainage calculations, Pro Forma and Drainage Design Technical Note discharge is restricted to 5l/s. This is required to be amended on the Drainage Strategy general arrangement drawing.

3. ADDITIONAL REASON FOR REFUSAL

- 3.1 The drainage information supplied with the application has failed to adequately demonstrate an acceptable Sustainable Drainage System. As such the proposal has failed to comply with emerging policy NR1 of the Borough Local Plan 2013-2033 Submission Version and guidance set out in paragraph 165 of the NPPF.

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PANEL UPDATE

07/01/2019

Windsor Urban Panel

Application No.:	18/03138/FULL
Location:	Land To Rear of 54 To 60 Clewer Hill Road Windsor
Proposal:	Partial demolition of garages, and change of use and conversion of 6 garages and 2 storage buildings to a single storey dwelling, with parking, access and amenity space.
Applicant:	Mr Gray
Agent:	Mr Barry Watts
Parish/Ward:	Windsor Unparished/Clewer East Ward

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1. SUMMARY

- 1.1 A letter from bpcollins solicitors has been submitted on behalf of Mr Frazer Smith who owns the ground floor flat and separate garage at 60 Clewer Hill Road. They have requested that their client's easement to park a car in front of his garage is taken into consideration. It is however considered that easement to park a car would be a civil/legal issue and is not a material planning consideration.

2. ADDITIONAL INFORMATION

- 2.1 The solicitor's letter advises that the owners of the 3 garages have the benefit of prescriptive easements to park a car in front of their respective garages. It is alleged that the application does not take into account the easement and seeks to interfere with the rights of their client. It is contended that notwithstanding the planning application and any decision made, the easement remains and their client reserves the right to park in front of the garage. A sworn statutory declaration from their client and supporting statutory declaration from the owner at number 58 Clewer Hill Road and Mr Anthony Grey has been supplied.

3. OFFICER'S COMMENTS

- 3.1 The area in front of the garages is described on the drawings as 'communal drive' and a condition is proposed to be imposed on any planning permission which reads:

'No part of the development shall be occupied until a vehicle turning head/space for use by service/delivery vehicles has been provided and marked out in accordance with a layout that has first been submitted to and approved in writing by the Local Planning Authority. The space approved shall be kept available for turning at all times and shall not be used for parking purposes. Reason: In the interests of highway safety and to facilitate vehicles entering and leaving Clewer Hill Road in a forward gear. Relevant policy T5.'

In dealing with a previous application on the same site under reference number 17/03636/FULL the agent confirmed that the applicant owns the entire garage forecourt and the owners/users of the adjoining garages are under existing legal obligation not to obstruct/park on the garage forecourt. A letter supplied by the client's solicitors reads:

'Mr Smith, as leasehold owner of garage 60, along with the leasehold owners of the adjoining garages that belong to 56 & 58 Clewer Hill Road, such garages not being within our client's title (and therefore outside of the planning application site), only have rights of way over the forecourt in front of the garages (which is within our client's title) and are obliged by a restrictive covenant in their title deeds, and an express covenant in their leases, not to obstruct the forecourt.

The leases of the relevant maisonettes also expressly grant a rite of passage over the forecourt for the purposes only of access and egress to the garages, and not of parking in front of the garages.

Parking cars on the forecourt is therefore a breach of the covenants, not authorised by anything in the leases, and amounts to an unlawful act of trespass.'

On this basis it would appear that the easement to park a car in front of the garages is a legal/civil matter between the leasehold owners of the garage and the land owners and would not be a material planning consideration. It is also acknowledged that the extant permission has a very similar parking arrangement to the layout now being proposed.