

DEVELOPMENT CONTROL PANEL

3 July 2019

Item: 3

Application No.:	19/00916/FULL
Location:	Windsor Physiotherapy Essex Lodge 69 Osborne Road Windsor SL4 3EQ
Proposal:	Demolition of existing building and construction of new building comprising 10 x two bedroom and 2 x one bedroom flats with associated parking, alteration to existing access and new bin enclosure
Applicant:	Sorbon Estates Ltd
Agent:	Mrs Kay Collins
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 The proposal seeks planning permission to demolish an existing 2 storey Victorian building close to Windsor town centre and replace it with a 3 storey building comprising 12 apartments (10 x 2 bed and 2 x 1 bed) with associated car parking. The current scheme follows 2 previous appeals to build 14 flats on the site which were both dismissed and a more recent application refused under reference number 18/03027/FULL. The number of units has been reduced from 14 to 12 and the overall height and bulk has also been reduced. However it is not considered that the current scheme has sufficiently addressed the previous concerns and the application is recommended for refusal for the reasons set out below.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 14 of this report):

1.	The proposed development would appear cramped and unduly prominent in the street scene to the detriment of the spacious character and appearance of the site itself and the locality in general and the setting of the adjacent Conservation Area.
2.	The proposal would result in future pressure to remove or reduce the adjacent Lime tree and insufficient space has been provided to secure any meaningful planting/landscaping.

2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application; such decisions can only be made by the Panel.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is a triangular shaped, prominent corner plot, located at the junction of Osborne Road and Bolton Avenue, close to Windsor town centre. The site currently comprises a detached, two storey Victorian building which is in use as a physiotherapist, Pilates studio and medical offices. There is also one residential unit on the site. The site is enclosed by a close boarded fence and is completely hard surfaced with no trees within the site. There are trees on the adjacent highway land.
- 3.2 The site occupies one of five corners of the gyratory/ roundabout. Two of the corners are occupied by large modern apartment blocks, Dene House and Knights Place. Kings House lies at the junction of Osborne Road and Frances Road, to the north of the application site, and is

similar in architectural style and date to the application site. These smaller scale buildings are considered to have some gateway qualities, being located on a main junction into the town centre.

- 3.3 The application site lies adjacent to Heron Lodge, a three storey flatted development to the south east of the site and opposite detached dwellings in Bolton Avenue.

4. KEY CONSTRAINTS

- 4.1 The site forms part of the setting of the Inner Windsor Conservation Area which runs along the opposite side of Osborne Road to the north of the site. The site lies within the 'leafy residential suburbs' character area as designated in the Townscape Assessment.

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 Planning permission is sought to demolish the existing building and erect a 3 storey building comprising a total of 12 apartments (10 x 2 bed and 2 x 1 bed) with associated parking for 17 vehicles, including under croft parking. Cycle and bin storage are proposed to be provided. The existing vehicular access onto Osborne Road is to be closed and the existing vehicular access onto Bolton Avenue is to be altered.
- 5.2 The building has been designed to try and replicate the existing Victorian building it replaces and incorporates timber detailing and rendering above brickwork at ground and first floor level. The building incorporates a number of balconies and dormer windows. The height of the building measures 11.5m adjacent to Heron Lodge rising to 11.85m closer to the road junction at Bolton Avenue and Osborne Road. Railings and hedge planting are proposed around the perimeter of the site with some tree planting within the site.
- 5.3 The table below sets out the relevant planning history for the site:

Reference	Description	Decision
02/82395/COU	Change of use from residential to medical consultancy (Class D1) with ancillary residential use.	Permitted 25.10.02
11/01187/FULL	Redevelopment and change of use of existing site and building to a four storey apartment building comprising 14 residential apartments.	Withdrawn
11/02309/FULL	Redevelopment and change of use of existing site and building to a four storey apartment building comprising 14 residential apartments.	Refused on 2 nd December 2011 and dismissed on appeal 7.08.12
13/01689/FULL	Redevelopment of existing site to provide 14 apartments with associated basement parking and access.	Refused on 13 th September 2013 and dismissed on appeal 21.3.14
18/03027/FULL	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.	Refused on 16.1.19

The previous application (reference number 18/03027/FULL) was refused for the following reasons:

- The proposal development, because of its siting, layout, height, size, bulk and design would appear cramped and unduly prominent and obtrusive in the street scene and would be harmful to the spacious character and appearance of the site itself and the locality in general including the setting of the adjacent Conservation Area. The proposal fails to comply with Local Plan policies DG1, H10, H11 and CA2 of the Royal Borough of Windsor and Maidenhead Local Plan Incorporating Alterations adopted June 2003 and emerging policies SP3, HO5 and HE1 of the Borough Local Plan 2013-2033 Submission Version and guidance set out in paragraph 127 of the NPPF.
- The proposed development, by virtue of its siting, size, scale and design would appear overbearing and unduly prominent when viewed from Heron Lodge and would result in an unneighbourly form of development to the detriment of their living conditions in terms of light, outlook and privacy, contrary to emerging policy SP3 of the Borough Local Plan 2013-2033 Submission Version and guidance set out in paragraph 127 of the NPPF.
- The proposed development, because of its siting, size, layout and design would result in future pressure to reduce or remove the adjacent Lime tree in Bolton Avenue and insufficient space has been provided within the site to provide any meaningful planting/landscaping to the detriment of the character and visual amenity of the locality and contrary to local plan policies N6 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan Incorporating Alterations adopted June 2003 and emerging policies SP3 and NR2 of the Borough Local Plan 2013-2033 Submission Version.
- In the absence of a mechanism to secure Affordable Housing the proposal fails to comply with Paragraphs 63 and 64 of the National Planning Policy Framework and policy H3 of the Royal Borough of Windsor and Maidenhead Adopted Local Plan and emerging Policy HO3 of the Borough Local Plan 2013 -2033 (Submission Version).
- 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.

5.4 The scheme has been substantially changed since the previous appeal schemes in 2012 and 2014 and the scheme has also been amended in an attempt to address the previous reasons for refusal set out above under 18/03027/FULL. The number of units has been reduced from 14 to 12, the 4th storey omitted and the overall height reduced by between 1.3m and 1.67m. Other amendments include improvements to the relationship between the proposed building and Heron Lodge including proposed ground works to enable the height of the building to be reduced further to bring it more in line with Heron Lodge. The finished floor level would be reduced and the height of the building adjacent to Heron Lodge would be the same as the existing building and the roof is pitched to help reduce the massing.

5.5 The footprint of the building remains relatively unchanged. The building still comes close to the site boundaries at certain points and whilst the depth of the building immediately adjacent to Heron Lodge has been reduced at the rear, it now projects further in front of Heron Lodge and comes closer to Osborne Road at this point.

6 DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10,H11
Highways	P4 AND T5
Impact on Conservation Area	CA2
Affordable Housing	H3
Trees	N6
Community Facilities	CF1

These policies can be found at

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

7. **MATERIAL PLANNING CONSIDERATIONS**

National Planning Policy Framework Sections (NPPF) (2019)

Section 2 – Achieving sustainable development

Section 4- Decision-making

Section 5 – Delivering a sufficient supply of homes

Section 9- Promoting Sustainable Transport

Section 12- Achieving well-designed places

Section 16- Conserving and enhancing the historic environment

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Sustainable Transport	IF2
Affordable Housing and Housing Density	HO3, HO5
Historic Environment	HE1
Tress, Woodlands and Hedgerows	NR2
Infrastructure and Developer Contribution	IF1
Community Facilities	IF7

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

7.2 This document can be found at:

https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1

Local Strategies or Publications

7.3 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy
- Affordable Housing Planning Guidance
- Inner Windsor Conservation Area Appraisal (2015)

More information on these documents can be found at:

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

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

57 occupiers were notified directly of the application.

The planning officer posted 2 site notices advertising the application on the two road frontages on the 10th April 2019 and the application was advertised in the Local Press on the 11th April 2019.

22 letters were received objecting to the application, summarised below (including 4 letters from groups/organisations)

Comment	Where in the report this is considered
1. Object to landmark heritage building being demolished	Paragraph 9.12
2. Area is saturated with flats.	9.10
3. Size, layout and height will appear overbearing and out of character with rest of the area.	9.12-9.18
4. Loss of local businesses.	9.42
5. Loss of lime tree and other trees near site.	9.32-9.38
6. Impact on already dangerous road.	9.27-9.31
7. Proposal is little different from the previously refused scheme.	9.13
8. Inclusion of superficial detailing copied from the existing building will do nothing to ameliorate the impact on the street scene.	9.14
9. All existing protected trees on the site have been removed.	9.33
10. Building needs to be given protection.	9.12
11. Essex Lodge is an attractive heritage building matched with King's House across the road.	9.11
12. Building is still huge and covers almost the whole site.	9.13
13. Building comes close to Bolton Avenue and Osborne Road frontages which is out of character with area.	9.12
14. Proposed landscaping is inadequate.	9.37
15. Concerned about probable damage to roots of Lime tree.	9.36
16. Lime tree will restrict views of drivers exiting property.	9.31
17. Inadequate provision of parking spaces and no visitor parking. No turning circle could result in vehicles reversing out onto Bolton Ave and will add to parking problems.	9.27-9.31
18. Headlights will shine into front of number 2A Bolton Ave.	9.24
19. Invasion of privacy to number 2A Bolton Ave.	9.24
20. Development will spoil gateway effect with King's House opposite and will spoil the look of the Boltons.	9.11
21. The building should be protected and preserved.	9.12
22. Plans not fundamentally different from last scheme.	9.14
23. Proposals do little to mitigate concerns from Heron Lodge residents - Overbuilding, reduction in natural light and view, overshadowing, minimal space between buildings, increase transfer fire risk, increased noise and demand on parking and impact on trees.	9.20-9.22
24. Essex Lodge is listed as a Non-designated Heritage Asset in the Windsor Neighbourhood Plan.	9.12
25. The past mistakes of Dene House and Knights Place should not be used as reason for allowing this development.	9.10
26. No consideration has been given to amenity space for future occupants.	9.27
27. Increase in road traffic close to a busy road junction.	9.27-9.31

28.	Building will project in front of building lines in Osborne Road and Bolton Ave.	9.13
29.	Building is too large for the site and leaves no space for significant tree screening.	9.37
30.	Create more noise and disturbance for residents of Heron Lodge and neighbouring houses.	9.24
31.	Building will result in severe loss of sunlight to Heron Lodge and result in privacy issue.	9.21-9.24
32.	Impact on road and pedestrian safety.	9.27-9.31
33.	Essex Lodge was built for individuals connected with the Royal Household and its date plaque commemorates the Diamond Jubilee of Queen Victoria.	9.11
34.	Proposal will have negative affect on the amenities enjoyed by number 3 Bolton Avenue.	9.23
35.	Create more demand for on street parking.	9.29

Statutory consultees

Consultee	Comment	Where in the report this is considered
Lead Local Flood Authority	No objection subject to a suitably worded condition.	9.41
Conservation Officer	<p>The proposal would result in the demolition of an attractive Victorian building which could be considered as a non-designated heritage asset. The NPPF advises that in such cases a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case the scale of loss is total and the replacement building is considered to be deficient on a number of counts including its size, siting and design.</p> <p>The proposal will also cause less than substantial harm to the setting of the heritage asset (Conservation Area). Unless there are obvious public benefits from the scheme that might outweigh this, then the application should not be supported.</p> <p>Given however the interest and quality of the building's architecture, it is considered that it could be considered to be a non-designated heritage asset as defined in the NPPF. Paragraph 197 of the NPPF states:</p> <p><i>'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balance judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'</i></p> <p>The proposal does not accord with Local plan policies DG1 and CA2 and emerging policy HE1.</p>	9.11-9.18
Environmental	Conditions and informatives suggested which include	Noted.

Protection	details of measures to acoustically insulate the habitable rooms against aircraft noise.	
Tree officer	<p>The built form will come close to the Lime tree growing on highway land outside the property and will result in the need to significantly prune the canopy which would impact on the condition of the tree. There will also be pressure to prune the trees from future residents due to light, over dominance and sticky residue from the tree. Building should be scaled back to create a reasonable relationship between the canopy and prevent any conflict with future occupiers.</p> <p>The scheme fails to adequately secure the protection of this tree which contributes positively to the character and appearance of the area and refusal is recommended under policy N6, DG1 and H11.</p>	9.32-9.38
Highways	No highway or parking objections subject to the imposition of conditions and informatives	9.27-9.31

Other Groups and Organisations

Group	Comment	Where in the report this is considered
The Victorian Society	Object. Essex Lodge and King's House appear as a pair and should be retained as such. Proposal would have a detrimental effect on King's House and the Inner Windsor Conservation Area. The existing building could be converted into flats to provide housing. Essex Lodge should be included into the Inner Windsor Conservation Area.	9.11-9.18 & 9.43
Save Britain's Heritage	Object to demolition of Essex Lodge. Building should be considered a non-designated heritage asset. Significant harm will be caused to the Conservation Area. Site should be included in the Conservation Area. The building is identified in an emerging Local List. Pastiche design. Recommend refusal.	9.11-9.18
The Windsor Neighbourhood Plan Committee	<p>Some weight needs to be given to The Windsor Neighbourhood Plan submitted to RBWM for its Regulation 15 stage. The proposal contravenes some WNP policies. The proposed building is of a much larger height, scale and mass and would destroy the symmetry between King's House and Essex Lodge and would cause substantial harm to the Conservation Area and contravene policy CA2.</p> <p>The WNP has identified Essex Lodge as an important Non-designated Heritage Asset on the NDHA list. The demolition of Essex Lodge would result in further erosion of local character and heritage and would contravene WNP policy HER.02.</p> <p>Trees have been stripped out by the current owner and the site would be improved by their reinstatement. More trees and planting should be added to re-instate the green appearance from Bolton Avenue. Concerned about deficiencies in provision of outdoor private amenity space at ground floor.</p> <p>We would urge you to refuse the application and support</p>	9.11-9.18

	the extension of the Conservation Area to include Essex Lodge.	
The Windsor and Eton Society	<p>Proposals would be detrimental to the character of this prominent Windsor gateway and the application should be refused.</p> <p>Evidence to show that Essex lodge is a 'Heritage Asset'. Previous appeal decision predates the identification of Essex Lodge as a heritage Asset, the preparation of the emerging Local Plan, the WNP and the emerging Borough Wide Design Guide.</p> <p>The conversion of Essex Lodge would enable a number of new residential units to be provided without the loss of heritage or harm to local character.</p> <p>The applicant should weigh the potential harm to the heritage asset against the public benefit of the development.</p> <p>Design would still be overbearing in the street scene and to Heron Lodge and does not allow for any meaningful landscaping in the 'leafy residential suburbs'. The one bed flats are not served by any outside space/ balcony and the ground floor flats do not appear to have any private enclosed amenity space. The roof design is unsatisfactory and contrary to the emerging Design Guide.</p> <p>The previous inspector's conclusion that the development would constitute 'a direct and harmful incursion into the spaciousness of the character of the area' still applies.</p>	9.11-9.18

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Impact on the character and appearance of the site itself, the locality in general and the adjacent Conservation Area.
- ii Impact on the living conditions of the neighbouring properties/future occupants;
- iii Impact on highway safety and parking;
- iv Impact on trees/landscaping;
- v Affordable Housing;
- vi Drainage;
- vii Other Material Considerations.

i Impact on the character and appearance of the site itself, the locality in general and the adjacent Conservation Area.

9.2 The application has been accompanied by a Design, Access and Planning Statement and a Heritage Statement. The applicant has also provided a letter dated 4th June 2019 which responds to comments received in connection with the application including from the Conservation Officer and the Victorian Society.

9.3 Section 12 (achieving well-designed places) of the National Planning Policy Framework (NPPF) emphasises the importance of the design of the built environment. Paragraph 127 states that

planning policies and decisions should ensure that developments, amongst other things, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting. In respect to heritage assets, paragraph 193 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*

- 9.4 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. 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.
- 9.5 Policy DG1 states that the design of new buildings should be compatible with the established street facade having regard to the scale, height and building lines of adjacent properties. Development proposals, where appropriate, will be expected to include landscaping schemes. Harm should not be caused to the character of the surrounding area through development which is cramped or which results in the loss of important features which contribute to that character.
- 9.6 Policy CA2 requires that any development will enhance or preserve the character or appearance of a Conservation Area. New buildings should 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.
- 9.7 Emerging policy SP3 entitled 'Character and design of new development' requires new development to contribute towards achieving sustainable high quality design in the Borough. A development proposal will be considered high quality design and acceptable where it achieves a number of design principles include respecting and enhancing the local natural or historic character of the environment, paying particular regard to urban grain, layouts, rhythm, density, scale, bulk, massing, proportions, trees, water features, enclosure and materials. Emerging policy HO5 requires all new housing to be developed at a density that is consistent with achieving good design, including making efficient use of the land available and having regard to the character and location of the area. Proposals for higher density residential schemes in sustainable locations in the around town centres will be permitted. The density of development will be informed by the layout of the proposal compared to the prevailing character of the surrounding area and the need to ensure satisfactory residential amenity for both the proposed accommodation and nearby residential properties.
- 9.8 The Townscape Character Assessment describes this area as 'leafy residential suburbs' which are low density residential suburbs comprising large detached houses in spacious, irregular, well treed plots, typically dating from the early 20th Century to the present day. The character is defined by large properties set well back from the road and some distinctive building styles are evident including early 20th Century 'Arts and Crafts' architecture. The site lies adjacent to the Inner Windsor Conservation Area, which is described on the Council's Inner Windsor Conservation Area Appraisal (2015) as having large villas set within spacious plots with large front and rear gardens. Large trees are found along the major routes, designed to achieve a grandness to travelling along such roads and includes Osborne Road.
- 9.9 There have already been two previous appeals on this site relating to the redevelopment of the site for 14 apartments both of which were dismissed on appeal. The first scheme was dismissed at appeal on the 19th June 2012 (LPA reference 11/02309/FULL) and was for a 5 storey, contemporary style apartment building situated in the middle of the plot, away from the road frontages. In determining the appeal the inspector concluded that *'this is a site which can accept a larger building than that which is in place now'* and raised no objection to the loss of the existing building, the loss of the use and considered *'the effect on the conservation area would be limited and acceptable.'* Whilst the relationship with Osborne Road was considered to be acceptable the proposal was considered to respond poorly to the established residential character and

appearance of Bolton Avenue and harm the privacy of the closest residents in Bolton Avenue and was dismissed on this basis.

- 9.10 The second appeal dismissed on 21st January 2014 (LPA reference 13/01689/FULL) also sought 14 units but was more traditional in design. It adopted a different footprint coming very close to the site frontages. In determining the appeal the Inspector acknowledged that *'the current building makes a limited albeit positive contribution to the character and appearance of the site and area through its historic appearance, and the retained trees and soft landscaping.'* The Inspector noted (paragraph 6) *'that the roundabout location displays a variety in building types around its edge. The two northern corners of the roundabout, which are in the conservation area, contain buildings of a generally restrained scale. The remaining two corners accommodate flatted buildings of significant scale and mass.'* Despite reference to the large scale flatted developments he raised significant concern to the layout and massing of the development and noted the lack of space for landscaping, which he felt would create a development form that would be detrimental to the appearance of the site and the locality. He also raised objection to the proposed built form projecting in front of the existing building line established by Heron Lodge and concluded it would have a harmful impact on the character of the adjacent Conservation Area. Whilst he raised no objection to the proposed scale of development he concluded that the proposed development would not provide a satisfactory design, in terms of both its layout and massing and resultant impact on landscaping.
- 9.11 It is acknowledged that the current proposal is significantly different from the two previous appeal schemes and the current scheme has attempted to address the previous reasons for refusal under application number 18/03027/FULL. As before the current proposal involves the demolition of the existing Victorian building which retains many authentic Victorian features and makes a positive contribution to the character and appearance of the area. It is situated in a prominent location adjacent to the Inner Windsor Conservation Area and acts as an important entry point into the Conservation Area and Osborne Road. It has a very distinctive appearance in terms of its architecture and forms one of a group of 3 buildings including Kings House, and numbers 1 & 3 Bolton Avenue that are of similar appearance. Essex Lodge includes some modern single storey additions, but is otherwise largely unaltered externally.
- 9.12 Many of the representations received in connection with the application object to the loss of this building. In determining the first appeal in 2012 the Inspector noted there is currently *'no control over the intended removal of the present building on the site, it is not considered of listable quality and is not in the Conservation Area.'* It is also noted that the building has been identified as a Heritage Asset in the emerging Windsor Neighbourhood Plan. However no weight can yet be given to the WNP as it is not at a sufficiently advanced stage. Likewise no weight can currently be given to the emerging Design Guide. The amenity groups have also referred to the inclusion of the site within the Conservation Area. The Conservation Area was appraised in 2015 and no alterations to the boundaries were proposed at that time.
- 9.13 The existing building is to be replaced by a much larger 3 storey building which would have an overall height of 11.85 m reducing to 11.5m adjacent to Heron Lodge. The proposal has adopted a design to try to reflect the existing building and the building on the opposite side of Osborne Road, known as King's House. It is acknowledged that some improvements have been made to the previous scheme including the omission of the 4th floor, a reduction in the number of units from 14 to 12, the lowering of the element adjacent to Heron Lodge to follow the existing ridge height, and the overall reduction in the height and massing. In addition there is a reduced demand for car parking which has increased the level of garden space on the Osborne Road frontage. However the overall footprint remains relatively unchanged and there is still concern that the building would come too close to Osborne Road and Bolton Avenue. The building almost touches the north and west boundaries of the site coming within 1m at its closest point and would fill most of the site which would give rise to a somewhat cramped appearance. A large proportion of the site would be given over to the building and hard surfacing (parking and the access road) which would leave very little useable amenity space and little opportunity to provide soft landscaping and tree planting which is characteristic of the 'Leafy Residential Suburbs' designation. In addition the building would be sited forward of the established building line along

Osborne Road. The existing 2 storey building is sited 10m from the Osborne Road frontage and is sited in line with Heron Lodge, with the exception of the single storey element which is set behind the close boarded fence. The proposed building would project in front of the established building line of Heron Lodge by between 4 and 6m and would be sited much closer to the Osborne Road frontage which would make it overly prominent and detrimental to the streetscape of Osborne Road.

- 9.14 The proposal has picked up on the Victorian architecture, but the design of the building appears rather contrived, with an over complicated roof form and a roof that is not visually strong/bold enough given the scale of the building. The undercroft car parking area also contributes to poor design and these parking areas should be enclosed within the building rather than left open, with the fenestration carried through.
- 9.15 Whilst overall the height of the development is considered to be acceptable the footprint of the building is still considered too large for the site and improvements to the design are still required. The proposal would result in the total demolition of an attractive Victorian building, which could be considered as a non-designated heritage asset and the NPPF advises that in such cases a balanced judgement will be required having regard to the scale of any harm or loss, and the significance of the heritage asset. In this case the scale of loss is total and the replacement building is considered to be deficient on several counts and it is not considered that the introduction of more planting, hedgerow boundaries and trees would be sufficient to mitigate the visual impact of the development or enhance the setting of the adjacent Conservation Area. With regards to the setting of the Inner Windsor Conservation Area, it is considered that the proposal, for the reasons set out above will cause less than substantial harm to the setting of the heritage asset (Conservation Area).
- 9.16 Paragraph 196 of the NPPF states that *'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 benefit of the proposal including, where appropriate, securing its optimum viable use.'*
- 9.17 The benefits of the scheme are considered in full under section 11. It is not considered that these outweigh the harm to the setting of the Conservation Area and the revised scheme has not satisfactorily addressed the previous reason for refusal.
- 9.18 It is considered that the proposed development, by virtue of its siting, size, layout and design would appear cramped and over prominent which would be detrimental to the streetscape and harmful to the spacious character and appearance of the site itself, the locality in general and the setting of the adjacent Conservation Area. The proposal would result in less than substantial harm to the Heritage Asset (the Conservation Area). The proposal fails to comply with Local Plan policies DG1, H10, H11 and CA2 and emerging policies SP3, HO5 and HE1 and guidance set out in the NPPF, in particular sections 12 and 16.

ii Impact on the living conditions of the neighbouring properties/future occupants

- 9.19 It is necessary to carefully consider the impact of the proposal on the living conditions of any neighbouring properties particularly in terms of light, outlook and privacy. Paragraph 127 (f) of the NPPF (2018) states developments should *"create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users"*.
- 9.20 Emerging Policy SP3 states that development will be expected to have no unacceptable effect on the amenities enjoyed by the occupants of adjoining properties in terms of privacy, light, disturbance, vibration, pollution, dust, smell and access to sunlight and daylight.
- 9.21 The scheme has been revised to attempt to address previous reason for refusal number 2. The adjacent Heron Lodge comprises a 3 storey block of flats which is set down below the height of

the application site by approximately 1m. The building is shallow in depth and has front, rear and windows facing the application site at ground, first and second floor levels.

- 9.22 The ground levels adjacent to Heron Lodge are proposed to be reduced to enable the proposed building to be sited lower within the site and to improve the height relationship between the two properties. The proposed building would follow the same ridge height as the existing building adjacent to Heron Lodge and a pitch roof has been incorporated to help reduce the massing. The existing building already projects approximately 6m beyond the rear elevation of Heron Lodge and the proposed building would project 7m (a reduction of 2.5m on the previous scheme) beyond the rear elevation of Heron Lodge. The building would project 4m in front of Heron Lodge and would be sited 4m from the side elevation of Heron Lodge. Whilst it is acknowledged that the outlook from the rear of Heron Lodge would be altered, on balance it is not considered that it would have an overbearing impact or result in an unacceptable loss of outlook to the adjoining flats in Heron Lodge. Four windows (2 at first floor level and 2 at second floor level) are proposed in the flank elevation facing Heron Lodge. These windows are secondary windows serving the living/dining/kitchen areas which would also be served by larger windows in the front and rear elevations. It would therefore be appropriate if these windows were fixed and obscure glazed below a finished floor height of 1.7m in order to prevent any overlooking and loss of privacy and this could be conditioned. With the lowering of the land levels and proposed boundary treatment it is not considered that the position of the undercroft car parking would now produce an unneighbourly form of development. It is understood that the windows in the flank elevation of Heron Lodge are secondary bedroom windows with all the primary windows facing onto Osborne Road and Bolton Avenue. It is not considered that the revised proposal would have an unacceptable impact on the level of light currently enjoyed by Heron Lodge.
- 9.23 The Coach House, number 1 Bolton Avenue and number 3 Bolton Avenue lie to the south of the site. A minimum distance of 25m would be maintained between the proposed building and these properties. A first and second floor balcony are proposed on the front elevation (facing Bolton Avenue) and these would be set well back into the site and would be sited at least 30m from the boundary with the Coach House. The Coach House has a courtyard garden which is enclosed by a high wall and hedge. Whilst it is acknowledged that the aspect from these neighbouring properties would be altered it is not considered that the proposal would result in an unacceptable impact on the living conditions of these properties in terms of light, outlook and privacy given the distance which would be maintained and the resulting relationship.
- 9.24 The properties on the opposite side of Bolton Avenue, numbers 2a and 2b are visually separated from the application site by the road and a distance of at least 25 metres is maintained between the proposed building and these properties at its closest point. It is not considered that the proposal would result in an unacceptable impact on the living conditions of these properties in terms of light, outlook and privacy. Concern has been raised in the representations to car lights shining into the front windows of these properties from vehicles exiting the site however it is not considered that this would cause substantial harm to the amenities of these properties sufficient to justify an objection. Likewise it is not considered that any objection in terms of noise and pollution generated by the proposal could be sustained.
- 9.25 The proposed development would be separated from the other flatted developments at Dene House and Kings House by roads and it is considered that sufficient distance would be maintained between the proposed development and these properties and would not result in any significant loss of amenity to these properties.
- 9.26 In conclusion it is considered that the revised proposal has satisfactorily addressed the previous concerns raised in relation to the amenities of Heron Lodge. Each proposed flat would have its own amenity space, albeit quite small, in the form of balconies and garden space with the exception of the 2 x 1 bed flats. However it is not considered that this level of amenity space would be unacceptable in this location and it is considered that the amenities of the future occupants of the apartments would be acceptable. As such the proposal would accord with paragraph 127 of the NPPF and emerging policy SP3.

iii Impact on highway safety and parking

- 9.27 The site currently benefits from two vehicular accesses, one from Osborne Road and the other from Bolton Avenue. It is proposed to stop up the access on Osborne Road and reconfigure the existing access on Bolton Avenue to serve the proposed development. The stopping up of the existing access onto a primary distributor road is considered to be positive in terms of highway safety.
- 9.28 On street parking on the A308 Osborne Road is prohibited and enforced by double yellow lines. Bolton Avenue is within a controlled parking zone, containing a mix of double yellow lines, residential permit holder parking and time limited parking restrictions.
- 9.29 The development provides a total of 17 car parking spaces (9 in the undercroft and a further 8 surface spaces at the front of the proposed building). The proposal would require a total of 22 car parking spaces to be provided to accord with the Council's maximum adopted parking standard. However the proposed parking ratio of 1.5 parking spaces for each 2 bed unit and 1 space per 1 bed unit is considered acceptable in this sustainable location and also given the parking restrictions in the surrounding area.
- 9.30 The site provides 6 Sheffield cycle stands in the parking undercroft which will provide 12 cycle spaces to comply with the Local Authorities standards. A bin store is shown to be located in the parking area and the carry distance is deemed to be acceptable.
- 9.31 The proposal is likely to result in a reduction in vehicular movements onto the highway network and the introduction of 12 residential units raises no highway or parking concerns subject to the imposition of suitable conditions. The proposal therefore accords with adopted local plan policies T5 and P4.

iv Impact on trees/landscaping

- 9.32 The application has been accompanied by a tree impact assessment, tree protection plan and arboricultural method statement. Additional information (dated 22nd May 2019) has also been received in response to the tree officer's comments.
- 9.33 Some trees towards the northern corner of the site have been removed in recent years and there are now no trees or vegetation of any note within the site itself and the majority of the site is hard surfaced. It is considered that it would be beneficial to restore some tree cover to help improve the appearance of the site on this prominent road junction as well as improving the quality of the site for future occupiers.
- 9.34 There are two important highway trees, a Lime to the north of the access on Bolton Avenue and a Sycamore next to the junction of Bolton Avenue and Osborne Road. Both these trees are mature but have not reached their ultimate size. The trees have radial root protection areas of 5.4m and 4m respectively.
- 9.35 The previous scheme was refused on the grounds that the proposed development would result in future pressure to reduce or remove the adjacent Lime tree in Bolton Avenue and that insufficient space was provided within the site for any meaningful planting /landscaping. This current scheme has slightly altered the footprint of the building and the nearest elevation to this Lime tree has been set back a further 0.5m from the Lime tree. The proposed development will however still bring the built form close to this Lime tree and windows serving units 1, 3 and 8 will come close to this tree. The ground floor window serves a bedroom, and the windows on the first and second floors are the main lounge/dining room windows. Given the proximity and height of the tree there is considered to be future pressure from residents to prune the tree for reasons of light and perceived over dominance as well as seasonable debris.

- 9.36 The applicant has confirmed that only minor pruning is needed to achieve the required 1.5m clearance during construction within a small section of the tree's crown. It is acknowledged that the tree is off-site and would be under the management of the Council's highway department. However no consideration has been given to the future growth of this tree in terms of height and spread. It is likely that conflict will arise from the proximity of the tree to the habitable windows and that there would be significant pressure to prune the lime tree to its detriment. The building should be scaled back to create a better relationship with the canopy of the tree to avoid any future conflict.
- 9.37 An indicative landscape scheme has been provided which shows the planting of 8 trees within the site including fastigate cherry trees and fastigate hornbeams, and the planting of a hedge and railings to replace the perimeter close boarded fence. Whilst this would be an improvement on the current level of planting/ landscaping on the site it is still considered that there would be only limited space to enable any meaningful level of landscaping and tree planting to help maintain the leafy character of the locality in general.
- 9.38 The proposed development, by virtue of its size, siting, layout and design would result in future pressure to reduce the adjacent Lime tree in Bolton Avenue and insufficient space has been provided within the site to provide any meaningful planting/landscaping to the detriment of the character and appearance of the locality and contrary to local plan policies N6 and DG1 and emerging policies SP3 and NR2. It is not considered that previous reason for refusal number 3 has been adequately addressed.

v Affordable Housing

- 9.39 Affordable housing Local Plan policy H3 requires 30% affordable housing to be provided on sites of 0.5ha or more or for proposals of 15 or more units. There is therefore no requirement to provide affordable housing in this case as the proposal does not cross this threshold. However paragraph 64 of NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area. The proposal constitutes major development as defined in the Framework and the previous application was refused on the grounds that the proposal failed to comply with Paragraphs 63 and 64 of the National Planning Policy Framework and policy H3 of the Royal Borough of Windsor and Maidenhead Adopted Local Plan and emerging Policy HO3 of the Borough Local Plan 2013 -2033 (Submission Version).
- 9.40 Since the previous decision was made further clarification in the form of Inspectors' decisions have been obtained. The Inspector found that Framework paragraph 63 does not state that affordable housing be sought for major development schemes. When read in conjunction with footnote 29, and the Glossary at Annex 2, Framework paragraph 64 does not constitute an absolute requirement for affordable housing provision. That requirement emanates from the Local Plan, which in this case, does not require a development of 12 homes to provide affordable housing. As such there is no requirement to provide affordable housing in this case and the previous reason for refusal number 4 is no longer required.

vi Drainage

- 9.41 The drainage information supplied with the previous application failed to adequately demonstrate an acceptable Sustainable Drainage System. This current application has been accompanied by a technical note which sets out the surface water drainage design for the proposal which has been designed using a 1 in 100 year storm event plus a 30% allowance for climate change which can be accommodated on the site. The Lead Local Flood Authority has raised no objection to the proposal subject to the imposition of a suitable condition. As such the proposal now accords with emerging policy NR1 of the Borough Local Plan Submission Version and guidance set out in paragraph 165 of the NPPF.

vi Other Material Considerations

- 9.42 Local Plan Policy CF1 and emerging policy IF7 seek to protect existing community facilities. The existing use was not deemed to be a community facility in the consideration of the previous planning applications and no objection is raised to the loss of the use.
- 9.43 Many of the contributors have suggested that the existing building could be converted. However the principle of re-development of this site is accepted and the LPA can only determine the proposal put before it.

Housing Land Supply

- 9.44 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development and how this relates to decision-taking. The latter paragraph states that:

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

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

- 9.45 Footnote 7 of the NPPF (2019) clarifies that:

'Out-of-date policies include, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).'

- 9.46 The BLPSV is not yet adopted planning policy and the Council's adopted Local Plan is more than five years old. Therefore, for the purposes of decision making, currently the starting point for calculating the 5 year housing land supply (5hr hls) is the 'standard method' as set out in the NPPF (2019).
- 9.47 At the time of writing, the Council is able to demonstrate 4.62 years of housing land supply. Therefore, for the purpose of this planning application the LPA currently cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).
- 9.48 However, in this case it is considered that paragraph 11d (i) is relevant. Footnote 6 clarifies that '*areas or assets of particular importance*' include designated heritage assets. As set out in the report above, it is considered that the proposal would result in less than substantial harm to the setting of the Inner Windsor CA (a designated heritage asset) and that the public benefits of the scheme do not outweigh this harm. Paragraph 196 of the NPPF therefore provides '*a clear reason for refusing the development proposed.*' Paragraph 11d ii ('the *tilted balance*') is therefore not engaged and the planning balance for the proposal should be carried out in the usual manner.

10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 10.1 The development is CIL liable. The existing gross internal floor area has been calculated at 446.04 sq/m. The proposed gross internal floor area has been calculated at 1,519.6 sq.m. The net additional floor area has therefore been calculated at 1,073.56 sq.m.

11. PLANNING BALANCE AND CONCLUSION

- 11.1 Paragraph 11 of the Framework explains how the presumption in favour of sustainable development applies. As set out in paragraph 9.49 it is considered that in this instance the tilted balance should not be applied
- 11.2 It is acknowledged that the proposal on this site would deliver 12 dwellings in a sustainable location within Windsor. In addition the stopping up of the existing access onto Osborne Road is considered to be a positive in terms of highway safety. There are also currently no trees on the site and limited planting is proposed as part of this application. In respect of economic benefits, future residents of the development would make use of local services and spend in local shops. However, as the scheme is for 12 units the impact of this additional spend in the local economy would be limited. The scheme would also result in direct and indirect employment and create a demand for building supplies during the construction phase. Due to the short-term nature of these benefits, this can only be given limited weight.
- 11.3 Whilst acknowledging that this proposal for 12 units would make a small contribution towards the LPA meeting their 5yr hls the proposed development is considered to be harmful to the spacious character and appearance of the site itself and the locality in general including the setting of the adjacent Conservation Area and fails to comply with Local Plan policies DG1, H10, H11 and CA2 and emerging policies SP3, H05 and HE1. In addition it would result in future pressure to reduce the adjacent Lime tree and fails to provide any meaningful planting/landscaping, to the detriment of the character and appearance of the locality and contrary to local plan policies N6 and DG1 and emerging policies SP3 and NR2.
- 11.4 Paragraphs 1 and 12 of the NPPF (2019) are clear in stating that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed development remains contrary to the Development Plan and it is not considered that the NPPF (2019), as a material consideration, nor the benefits arising from the scheme, demonstrates that in this instance planning permission should be granted.

12. CONCLUSION

- 12.1 Whilst some of the reasons for refusal under application number 18/03027/FULL have been addressed by this application it is still considered that the proposed development, by virtue of its siting, size, layout and design would still appear cramped and overly prominent and detrimental to the streetscape and harmful to the spacious character and appearance of the site itself, the locality in general and the setting of the adjacent Conservation Area. The proposal fails to comply with Local Plan policies DG1, H10, H11 and CA2 and emerging policies SP3, HO5 and HE1 and guidance set out in the NPPF. In addition the proposal would still result in future pressure to remove or reduce the adjacent Lime tree to the detriment of the visual amenity of the locality and there would also be a lack of opportunity to provide for any significant soft landscaping contrary to Local Plan policy DG1 and N6 and emerging policies SP3 and NR2.

13. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout plan
- Appendix B – plan and elevation drawings
- Appendix C – Comparison Elevations
- Appendix D – Streetscene elevations
- Appendix E - Indicative Landscape Layout
- Appendix F – Bin store

14. REASONS RECOMMENDED FOR REFUSAL

- 1 The proposed development, by virtue of its siting, size, layout and design would appear cramped and over prominent which would be detrimental to the streetscape and harmful to the spacious character and appearance of the site itself and the locality in general and the setting of the

Conservation Area. The proposal would result in less than substantial harm to a Heritage Asset, the adjacent Conservation Area and the public benefits of the scheme are not considered to outweigh this harm. The proposal fails to comply with Local Plan policies DG1, H10, H11 and CA2 of the Royal Borough of Windsor and Maidenhead Local Plan Incorporating Alterations adopted June 2003 and emerging policies SP3, HO5 and HE1 of the Borough Local Plan 2013-2033 Submission Version and guidance set out in sections 12 and 16.

- 2 The proposed development, because of its siting, size, layout and design would result in future pressure to reduce or remove the adjacent Lime tree in Bolton Avenue and insufficient space has been provided within the site to provide any meaningful planting/landscaping to the detriment of the character and visual amenity of the locality and contrary to local plan policies N6 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan Incorporating Alterations adopted June 2003 and emerging policies SP3 and NR2 of the Borough Local Plan 2013-2033 Submission Version.

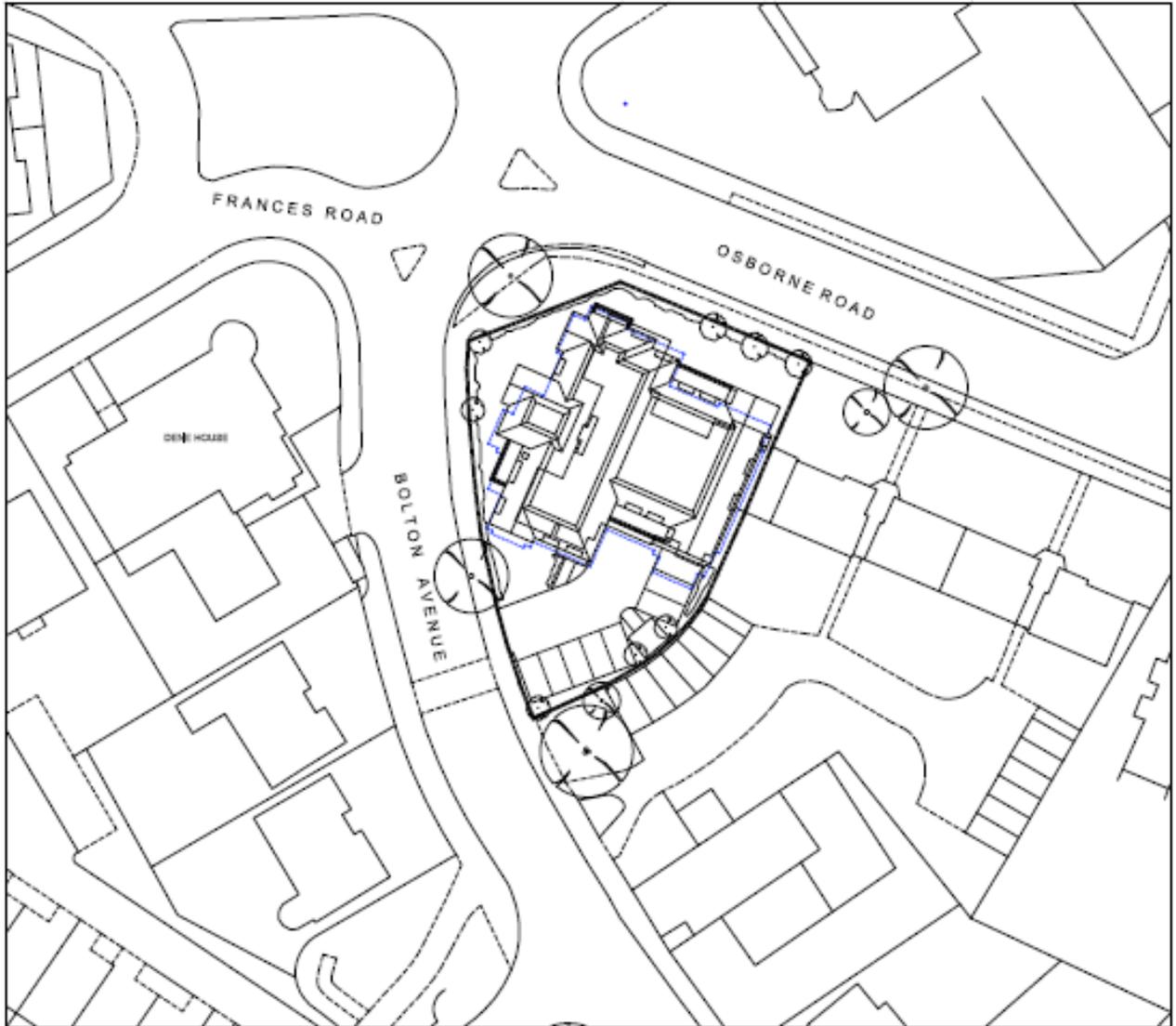
APPENDIX A – SITE LOCATION PLAN



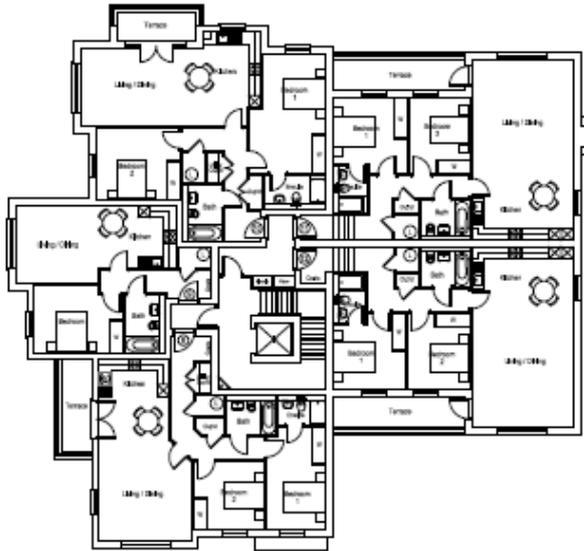
SITE LAYOUT



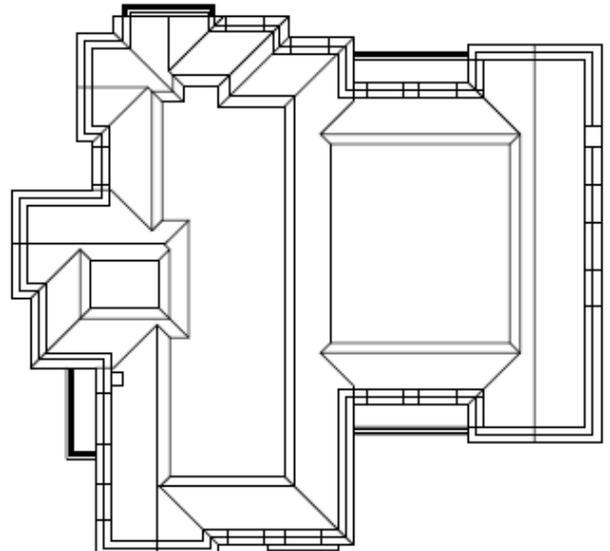
SITE LAYOUT COMPARISON PLAN WITH PREVIOUSLY REFUSED SCHEME



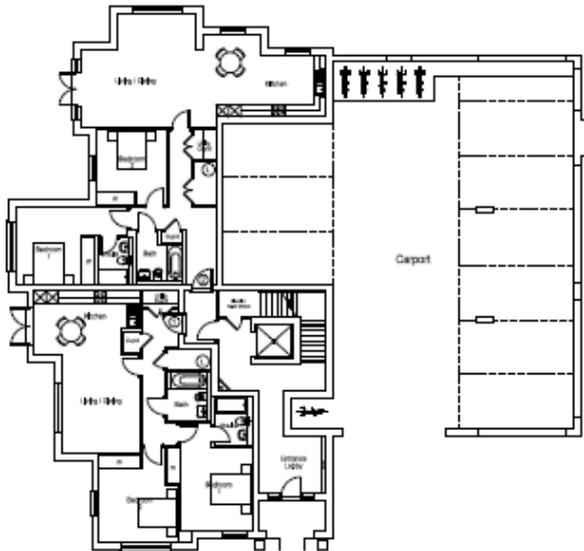
APPENDIX B – PLANS AND ELEVATION DRAWINGS



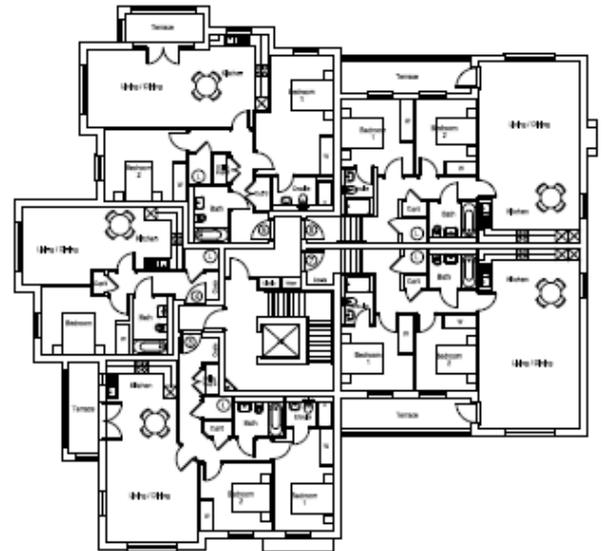
Second Floor Plan



Roof Plan



Ground Floor Plan



First Floor Plan



Side Elevation

Elevation facing roundabout

Osborne Road Frontage

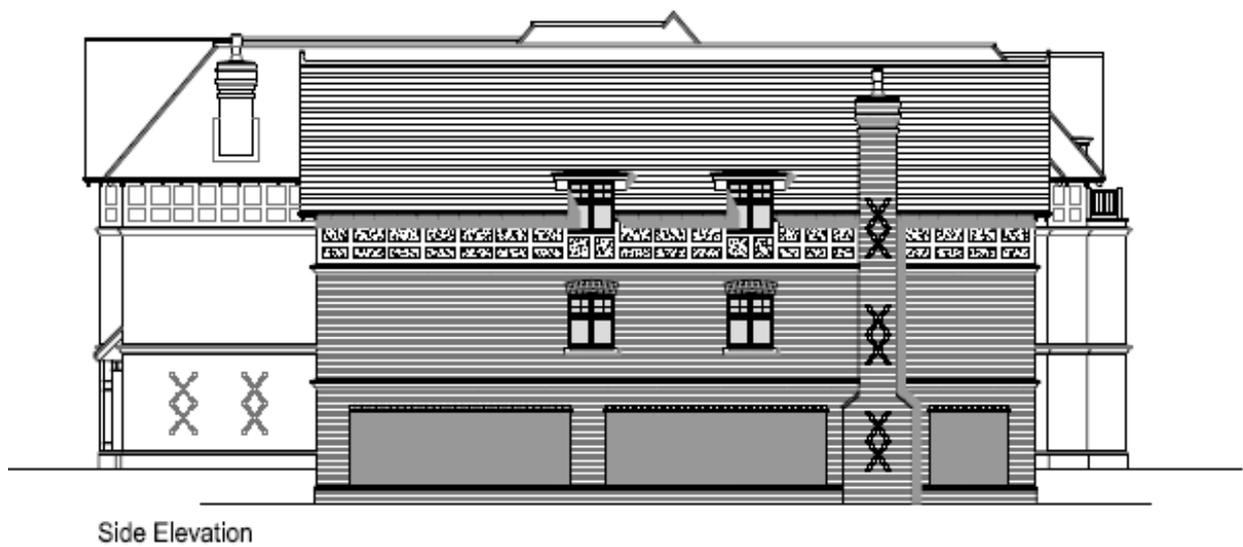


Rear Elevation



Bolton Avenue frontage

Elevation facing Heron Lodge



APPENDIX C - COMPARISON ELEVATIONS



North East elevation as Existing (facing Osborne Road)



North East as Proposed (facing Osborne Road) With Outline Of Existing Building



North East as Proposed (facing Osborne Road) With Outline Of Refused Building



APPENDIX D - STREETSCENE ELEVATIONS





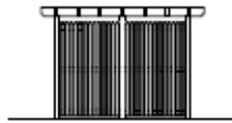
APPENDIX E – INDICATIVE LANDSCAPE LAYOUT



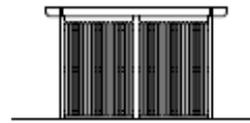
APPENDIX F – BIN STORE



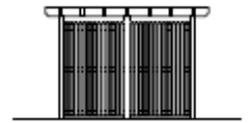
Front Elevation



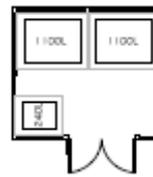
Side Elevation



Rear Elevation



Side Elevation



Plan