

## DEVELOPMENT CONTROL PANEL

3 July 2019

Item: 4

<b>Application No.:</b>	19/01015/VAR
<b>Location:</b>	Lime Tree Villas London Road Sunningdale Ascot SL5 0JN
<b>Proposal:</b>	Variation (under Section 73a) of Condition 2 (Approved Plans) to substitute those plans approved under 15/01752/FULL for 4 No. dwellings forming 2 pairs of semi-detached houses with associated parking, garages and amenity space following demolition of existing dwelling with amended plans (Allowed on Appeal).
<b>Applicant:</b>	Mr And Mrs Mills
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Sunningdale Parish/Sunningdale Ward
<b>If you have a question about this report, please contact:</b> Adam Jackson on 01628 796660 or at adam.jackson@rbwm.gov.uk	

### 1. SUMMARY

1.1 The application is to vary condition 2 (approved plans) of permission 15/01752 under S73 of the Town and Country Planning Act (as amended). In doing so the approved set of plans will be replaced with a new set which make the following changes:

- Changes to the stone detailing around the windows and window heads
- The replacement of casement windows with traditional sash windows
- Additional high level windows at ground floor level in the flank elevations
- An additional window in the side elevation of plot one at first floor
- Replacement of the ground floor windows on the rear elevation with a single larger opening
- Changes to the scale and the design of the rear dormer windows
- Minor changes to the internal layout of the dwellings

The proposed changes when taken as a whole are considered to constitute a minor material amendment to the original planning permission and as such it is appropriate for these changes to be made under the S73 procedure.

1.2 The changes are cosmetic only and there are no changes to the overall scale or positioning of the development, as such there is no impact on trees or highway related issues. The changes proposed would not reduce the overall design quality of the proposal. The changes to the windows would not impact upon the privacy of neighbouring properties and additional windows do not face directly into or toward neighbouring properties.

It is recommended the Panel authorises the Head of Planning:	
1.	To grant planning permission on the satisfactory completion of an undertaking to secure the necessary Deed of Variation as detailed in Section 9 of this report and with the conditions listed in Section 13 of this report.
2.	To refuse planning permission if an undertaking to secure the necessary Deed of Variation as detailed in Section 9 of this report has not been satisfactorily completed for the reason that the proposed development would cause harm to the Thames Basin Heaths SPA.

## 2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Bateson as it is considered that this is a misuse of the variation planning option as the changes represent a material change to the approved scheme. The application was called to panel only if the recommendation of the Head of Planning was to approve the application.

## 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located on London Road in Sunningdale and has had planning permission granted in 2016 at appeal for 4 new dwellings. Development has commenced on site. The application site is bounded on the right hand side by Woodstock House and on the left hand side by the access road to the public car park. To the rear of the site is Green Belt land. The application site is within 5km of the Thames Basin Heaths Special Protection Area.

## 4. KEY CONSTRAINTS

- 4.1 The key constraints are:
- Thames Basin Heaths Special Protection Area

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

- 5.1 The application is made under S73 of the Town and Country Planning Act (as amended) and proposes to vary condition 2 (approved plans) of application 15/01752/FULL. In doing so it is proposed to replace the approved plans with a new set which make the following changes:
- Changes to the stone detailing around the windows and window heads
  - The replacement of casement windows with traditional sash windows
  - Additional high level windows at ground floor level in the flank elevations
  - An additional window in the side elevation of plot one at first floor
  - Replacement of the ground floor windows on the rear elevation with a single larger opening
  - Changes to the scale and the design of the rear dormer windows
  - Minor changes to the internal layout of the dwellings

Reference	Description	Decision
15/01752/FULL	4 No. dwellings forming 2 pairs of semi-detached houses with associated parking and amenity space following demolition of existing dwelling.	Refused – 16.10.2015 Allowed at appeal – 15.04.2016
16/022358/FULL	4 No. dwellings formed of 2 pairs of semi-detached houses with basement, associated parking and amenity space following demolition of existing dwelling.	Refused – 21.10.2016
18/02008/VAR	Variation of Condition (2) (under S73) to substitute approved plans with amended plans for 4. No dwellings forming 2 pairs of semi-detached houses with associated parking, garages and amenity space following demolition of existing dwelling under (15/01752) (allowed	Withdrawn – 17.10.2018

	on appeal).	
19/00278/VAR	Variation of Condition 2 (Approved plans) (under Section 73A) to substitute the approved plans for the amended plans for 4 No. dwellings forming 2 pairs of semi-detached houses with associated parking, garages and amenity space following demolition of existing dwelling approved under 15/01752/FULL (Allowed on Appeal)	Withdrawn – 25.03.2019

## 6 DEVELOPMENT PLAN

### Adopted Royal Borough Local Plan (2003)

6.1 The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10, H11
Acceptable impact on nearby occupiers	H10, H11
Acceptable impact on parking and highway safety	P4, T5
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)

### Adopted Ascot Sunninghill and Sunningdale Neighbourhood Plan (2011-2026)

Issue	Neighbourhood Plan Policy
Design in keeping with character and appearance of area	DG1, DG2 and DG3
Highways	T1
Trees	EN1

These policies can be found at

[https://www3.rbwm.gov.uk/info/200209/planning\\_policy/477/neighbourhood\\_plans/2](https://www3.rbwm.gov.uk/info/200209/planning_policy/477/neighbourhood_plans/2)

### Adopted the South East Plan – Regional Spatial Strategy

Issue	Plan Policy
Thames Basin Heaths Special Protection Area	NRM6

## 7. MATERIAL PLANNING CONSIDERATIONS

### National Planning Policy Framework Sections (NPPF) (2019)

Section 4- Decision-making

Section 9- Promoting Sustainable Transport

Section 12- Achieving well-designed places

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Sustainable Transport	IF2
Trees, Woodlands and Hedgerows	NR2

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

This document can be found at:

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

### **Supplementary Planning Documents**

- RBWM Thames Basin Health's SPA

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

Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy

More information on these documents can be found at:

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

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

37 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 16.04.2019.

No letters were received as a result of this consultation.

### **Consultees**

Consultee	Comment	Where in the report this is considered
Parish	Have raised concerns that the previous unapproved variation	Paragraph's 9.1

Council	applications appear to be being built out rather than the approved scheme and have also raised concerns with the built form. The changes are considered to amount to a new planning application not a variation.	and 9.2 – Enforcement are aware that the scheme being built is not approved. This application if approved would regularise this.
Highways	Offers no objection to the proposal.	N/A
Trees	The applicants have not submitted any arboricultural information to support their application. Without this information, it is therefore not possible to accurately determine the impact of the proposed development upon the root systems to the trees on and off site.	Paragraph 9.4

## 9. EXPLANATION OF RECOMMENDATION

- 9.1 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 subject of this application.
- 9.2 This application proposes to vary condition 2 of permission 15/01752/FULL. In varying this condition it is proposed to substitute the plans approved under the original permission with a new set as previously described. Only cosmetic changes are proposed with the scale, height and footprint of the buildings remaining the same.
- 9.3 The proposed changes are not considered to impact on the overall design quality of the buildings and the development would continue to have an acceptable impact on the character and appearance of the area. The changes to the windows would not impact upon the privacy of neighbouring properties and additional windows do not face directly into or towards neighbouring properties.
- 9.4 The scale and position of the dwellings is unchanged and as such the proposal would have no further impact on trees, the character and appearance of the area or neighbour impact with regarding to loss of light or overbearing impact.
- 9.5 There are no changes proposed to the parking or access arrangements from the consented scheme.
- 9.6 Part of this Borough lies within the development management remit of a Special Protection Area (The Thames Basin Heaths Special Protection Area) (TBH SPA). Natural England has demonstrated that the new population arising from residential development at a distance of up to 5km from the TBH SPA can have a “significant effect” by causing disturbance to the breeding of rare bird populations due to the impact of residents’ recreational activities, particularly walking and walking with dogs. As such mitigation against the likely significant impacts upon the TBH SPA is required and it is normal for this to be secured via financial contributions towards the Council’s SANG (Suitable Alternative Natural Greenspace) (Allen’s Field) and SAMM (Strategic Access Management and Monitoring). This is to encourage people to use the recreation ground Allen’s Field rather than the TBH SPA. Financial contributions have already been paid as required under the original application. The Council’s Legal Officers have been instructed to draft a deed of variation which links these funds to this variation, however at the time of writing this has not yet been completed. It is recommended that the panel defer the application back to the head of planning to determine the application following the completion of this document.

### Other Material Considerations

## Housing Land Supply

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

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

- 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.*

- 9.8 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).'*

- 9.9 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 (5hyr hls) is the 'standard method' as set out in the NPPF (2019).
- 9.10 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).
- 9.11 Whilst the application site is within 5km of the Thames Basin Heaths Special Protection Area it is considered subject to the securing of mitigation as set out in paragraph 9.6 above that the development proposal would not have an adverse effect on a protected area as identified in footnote 6 of paragraph 11 d(i) of the NPPF. As such there is no clear reason for refusing the application as per paragraph 11 d(i) and paragraph d(ii) commonly known as the 'Tilted Balance' is engaged. The assessment of this and the wider balancing exercise is set out below in the conclusion.

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

- 10.1 The development is not CIL liable as it is applied for under S73 of the Town and Country Planning Act and the original application did not pay CIL.

## **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 9.11 it is considered that in this instance the tilted balance should be applied, however such an assessment is considered to be academic. This is because for the reasons set out above, Officers are of the view that if this application is determined in accordance with the normal test under section 38(6) of the 2004 Act, the proposal is in general conformity with the Development Plan overall and there are no material considerations of sufficient weight to justify refusal.

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

Appendix A - Site location plan and site layout
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Appendix B – Approved plans and elevations
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Appendix C – Proposed plans and elevations
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**13. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: FD 15-1285-50 (Site location plan), FD 15-1285-55B (Proposed site layout), FD 17-1496-555 revision E (Proposed plans and elevations), and FD 15-1285-108 (Garage plans and elevations).
- 2 The development shall be constructed externally using the materials as shown on the sample board document received on the 11th July 2017 and approved under application 17/02203/CONDIT unless otherwise agreed in writing by the Local Planning Authority.
- 3 The development shall be carried out in accordance with the slab level details shown on drawing FD 15-1285-56 and the e-mail received on the 16th October 2018 approved under application 18/00337/CONDIT unless otherwise agreed in writing by the Local Planning Authority.
- 4 Tree protection measures shall be maintained on site until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site in accordance with the details contained within the Arboricultural Impact Assessment & Method Statement and Tree Protection Plan (KEB17836-03B) approved under application 17/02203/CONDIT. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the Local Planning Authority.
- 5 Soft landscaping and planting shall be carried out in accordance with the details shown on drawing KEB17836-11A, approved under application 18/00337/CONDIT. These works shall be carried out in accordance with the approved timetable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others similar size and species, unless the Local Planning Authority gives written approval to any variation.
- 6 The development shall be carried out and subsequently retained and maintained in accordance with the sustainability measures as detailed in the Sustainability and Energy Statement approved under application 17/02203/CONDIT.
- 7 The development shall be carried out in and subsequently retained and maintained in accordance with the measures set out in the Lifetime Home Standards Statement as approved under application 17/02203/CONDIT.
- 8 The development shall be carried out in accordance with the construction management details as set out on the Site Set-up Plan 01a approved under application 17/02203/CONDIT. The approved details shall be adhered to throughout the construction period.
- 9 No part of the development shall be occupied until a means of vehicular access has been constructed in accordance with the approved plans.
- 10 No part of the development shall be occupied until vehicle parking spaces have been provided in accordance with the approved drawing. The spaces approved shall be retained for parking in association with the development.
- 11 The existing access to the site shall be stopped up and abandoned immediately upon the new access being first brought into use.

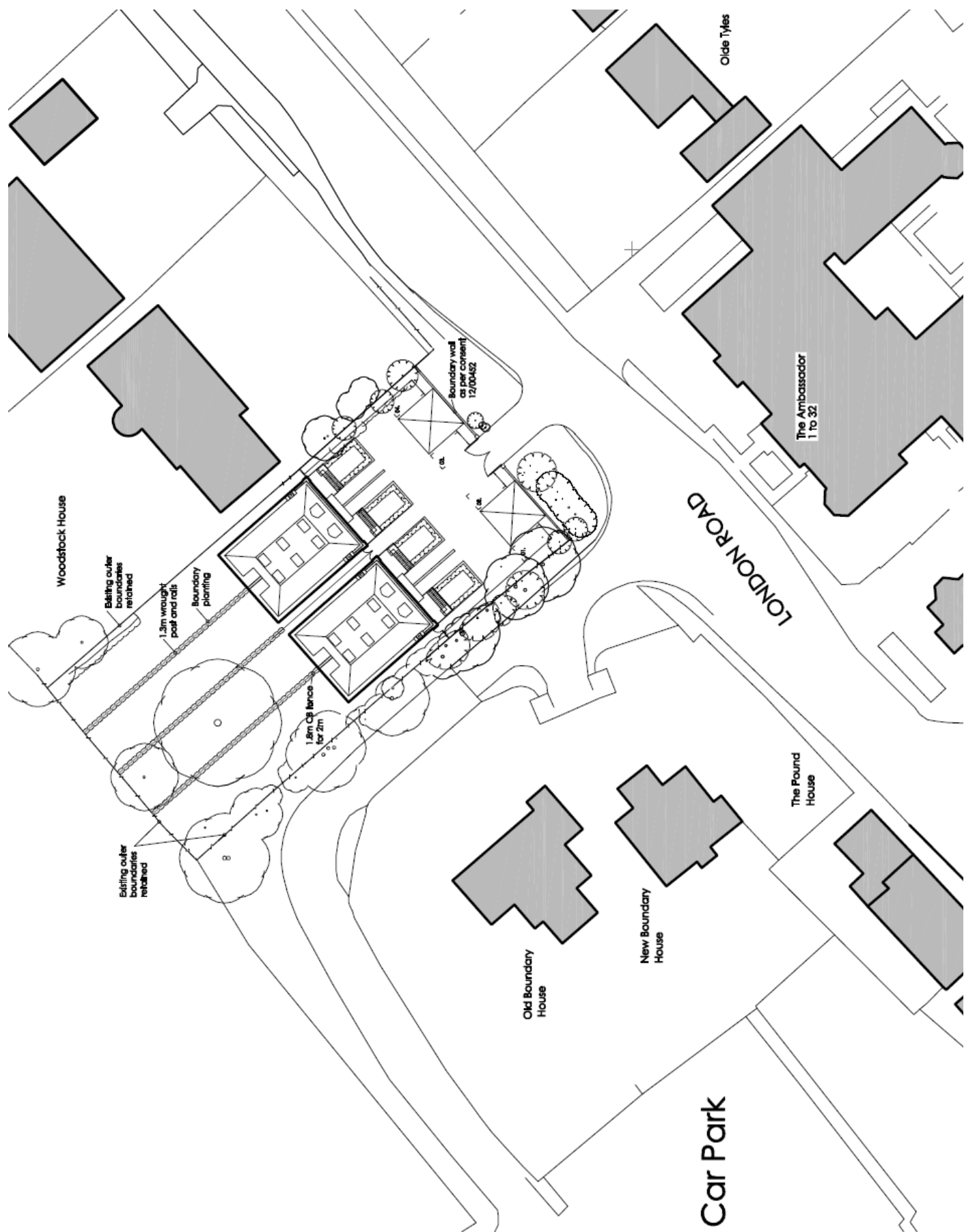
**Appendix A—Site location plan and site layout**

Site location plan



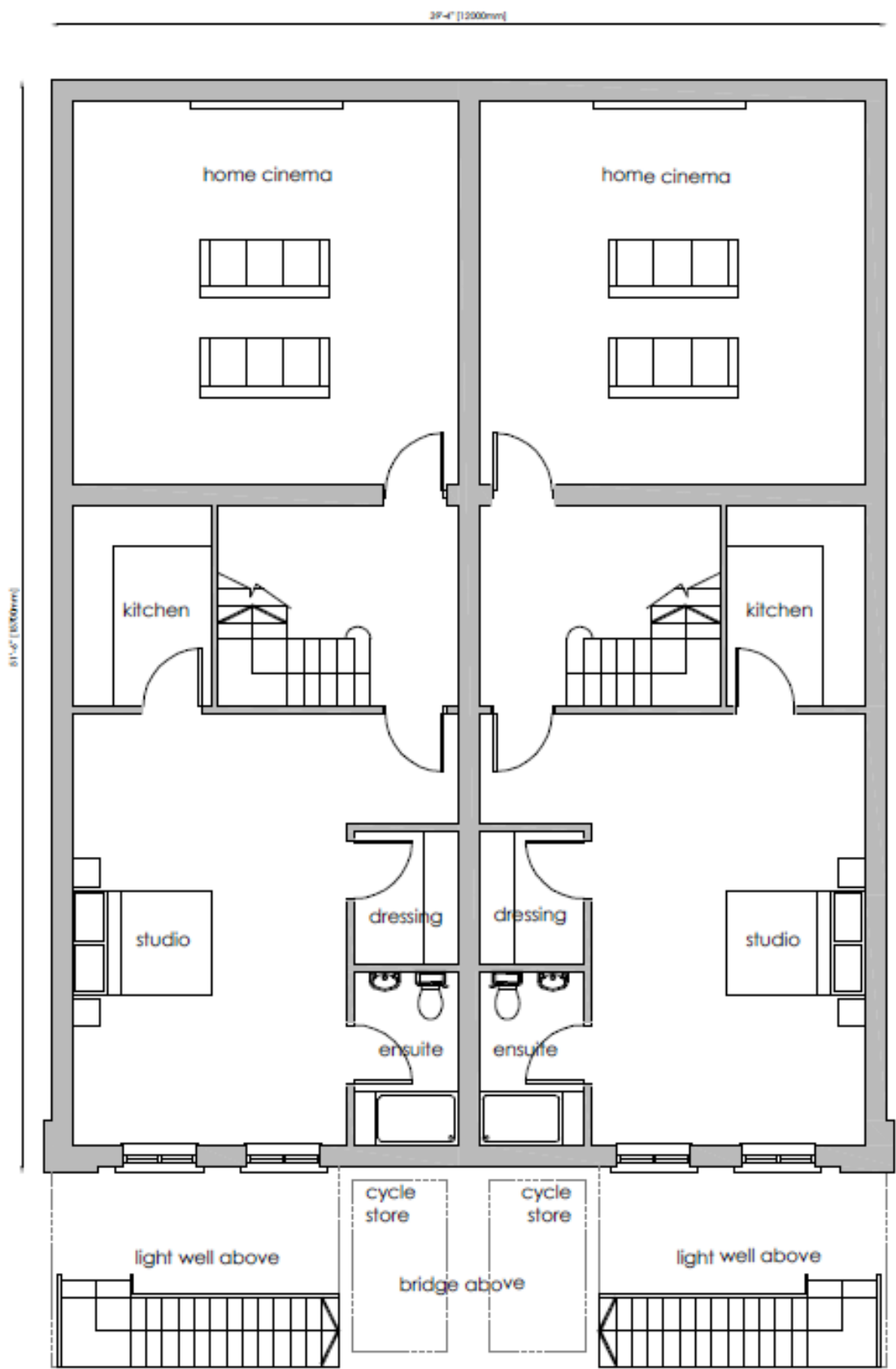


Site layout (approved under 15/01752)



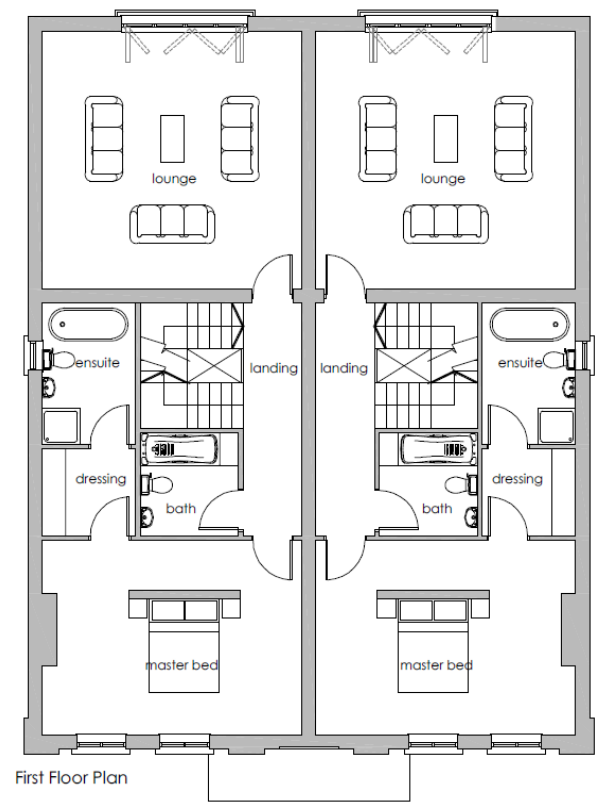
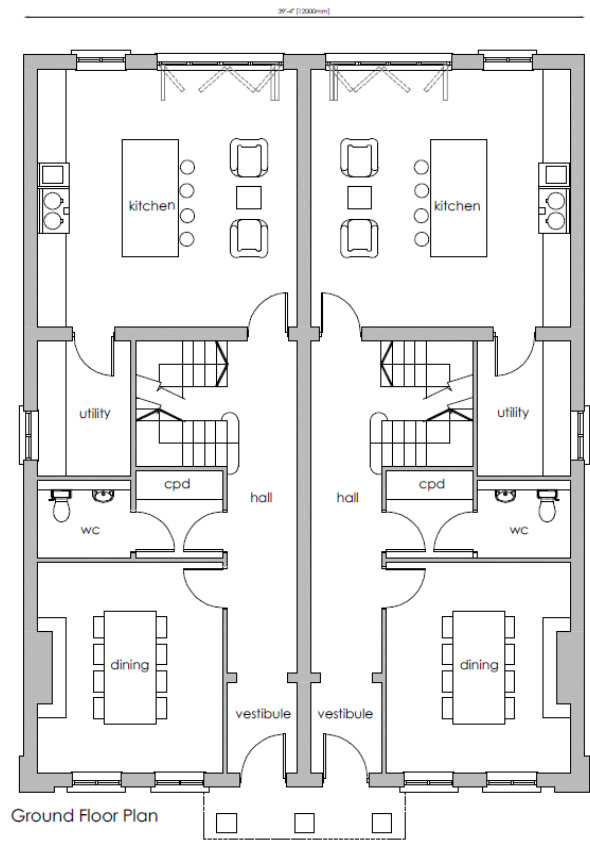
**Appendix B—Approved plans and elevations**

**Basement plan**

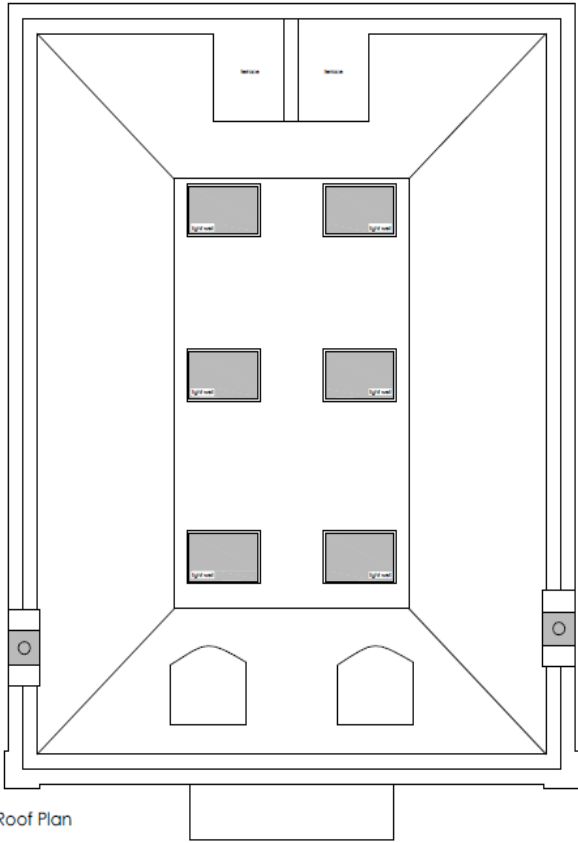
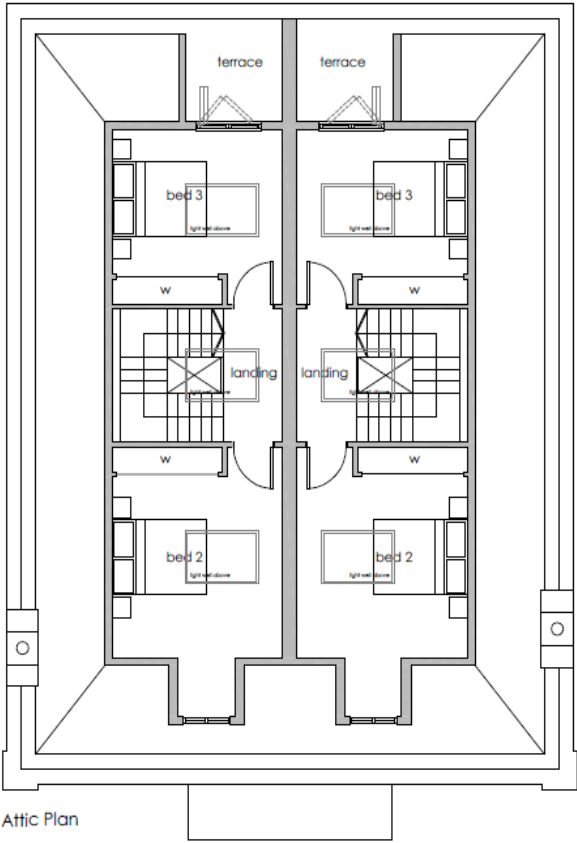


Basement Floor Plan

Ground and first floor plan



Attic and roof plan

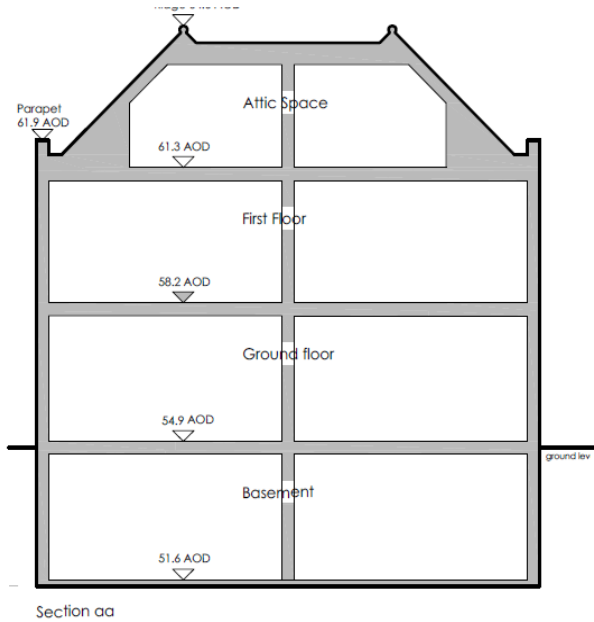
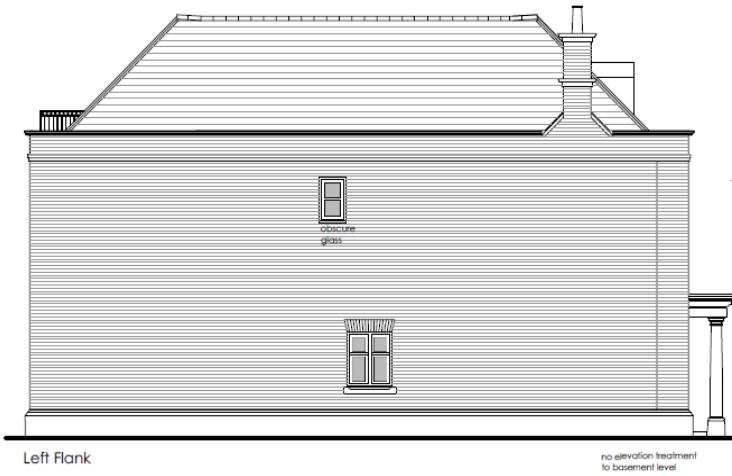


Front elevation

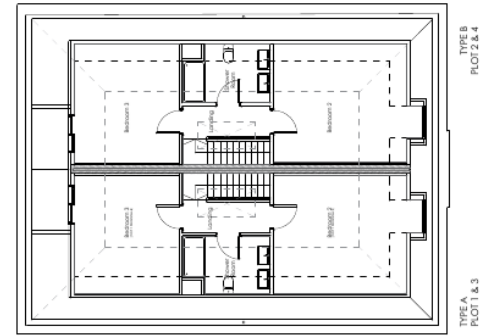


Front Elevation

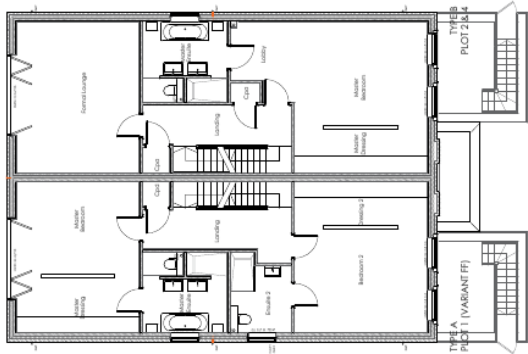
Rear and side elevations



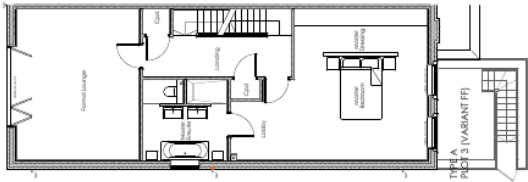
Appendix C— Proposed plans and elevations



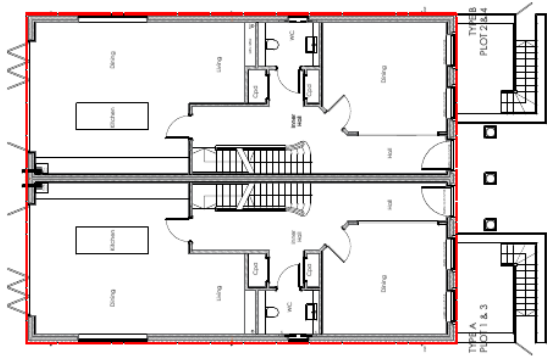
SECOND FLOOR



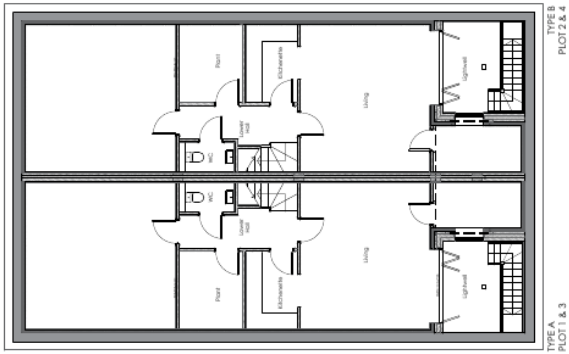
FIRST FLOOR



FIRST FLOOR



GROUND FLOOR



LOWER GROUND FLOOR