

MAIDENHEAD DEVELOPMENT CONTROL PANEL

16 October 2019

Item: 8

Application No.:	19/02043/FULL
Location:	Land North of Bray Watersports Monkey Island Lane Bray Maidenhead
Proposal:	Construction of a swan rehabilitation and care centre with associated works.
Applicant:	Wendy Hermon
Agent:	Gillian Konrad
Parish/Ward:	Bray Parish/Bray

If you have a question about this report, please contact: Charlotte Goff on 01628 685729 or at charlotte.goff@rbwm.gov.uk

1. SUMMARY

- 1.1 This application seeks consent for the erection of a swan rehabilitation and care centre.
- 1.2 The proposed development constitutes inappropriate development in the Green Belt and does not fall under any of the exceptions to inappropriate development. The case of very special circumstances outlined in section 9 of the report, does not clearly outweigh the harm by inappropriateness and any other identified harm. The proposal would also cause harm to openness and would be contrary to one of the purposes of the Green Belt which is to safeguard the countryside from encroachment.
- 1.3 The site is located in Flood Zone 3b Functional Floodplain. The swan sanctuary is identified as 'water compatible', the proposed office space and car park would be identified as 'less vulnerable', and the educational centre as 'more vulnerable'. The parts of the development classed as 'less vulnerable' and 'more vulnerable' are significant spaces in their size, and combined, occupy nearly half the footprint of the proposed building and surrounding land. In accordance with Tables 1 and 3 of the PPG, it is clear that these types of development are not compatible with this flood zone and should therefore not be permitted. The proposal is therefore contrary to Policy F1 of the Local Plan, NR1 of the emerging Borough Local Plan and paragraph 155 of the NPPF.
- 1.4 Groundwater is particularly sensitive in this location as the proposed development site sits directly upon a Principle Aquifer within the Shepperton Gravel Member and within an Inner Source Protection Zone for a public water supply abstracting from this gravel Aquifer. No information has been received with this application to demonstrate that the scheme would not pollute the groundwater.
- 1.5 A number of biodiversity enhancements have been recommended as part of this application. However, it is not clear as to whether or not these can and will be included within the development, or whether they will provide a net gain in biodiversity in line with NPPF and policies within the submitted Borough Local Plan. In addition it is not clear as to how much of the woodland/ scrub and other habitats are to be lost as part of this application. It is understood that a large area of woodland was already cleared over winter 2018/2019. An ecological mitigation and management plan is required in order to quantify the net biodiversity gains/losses, as well as the biodiversity enhancements/management for the site. Insufficient information has also been received to determine the likely impact of the proposals upon the Greenway Corridor Local Wildlife Site (LWS) and habitats. In the absence of these details, the Council is unable to determine whether the scheme will result in a loss in biodiversity. The scheme is thereby contrary to paragraph 175 of the NPPF.
- 1.6 Due to the uncertainty over the proposed use or potential of the education centre and number of visitors, the scheme has failed to demonstrate that it will not place an undue burden, or create problems of congestion on the surrounding transport network. The proposal would therefore be contrary to policy T5 of the Local Plan and paragraph 108 of the NPPF.

It is recommended the Panel REFUSES planning permission for the following reasons:

1.	The proposed development constitutes inappropriate development in the Green Belt and would conflict with one of its purposes, which is to safeguard the countryside from encroachment. Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be apportioned to any harm to the Green Belt. It is not considered that any very special circumstances exist that would outweigh the harm identified by inappropriateness and any other harm, and consequently the proposed development would impact on the openness of the Green Belt. The proposal is therefore contrary to paragraphs 133, 143, 144 and 145 of the National Planning Policy Framework (NPPF), the provisions of saved Policies GB1 and GB2(a) of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations adopted June 2003) and policy SP5 of the emerging Borough Local Plan Submission Version (2018).
2.	The site is located within Flood Zone 3b Functional Floodplain. The scheme is considered unacceptable as it includes elements (car park, office space, education centre) that fall within flood risk vulnerability categories ‘less vulnerable’ and ‘more vulnerable’, which are inappropriate to the flood zone. The scheme is thereby contrary to policy F1 of the Local Plan, NR1 of the emerging Borough Local Plan Submission Version (2018) and Paragraph 155 of the NPPF (2019).
3.	In the absence of any information to establish that the risks posed to groundwater can be satisfactorily managed, the proposal has failed to demonstrate that it would not pollute groundwater in the vicinity of the site. The proposal is contrary to policy NAP4 of the Local Plan and EP5 of the emerging Borough Local Plan Submission Version (2018).
4.	In the absence of information relating to the frequency of use of the education centre and location of additional parking to accommodate these visitors, the scheme has failed to demonstrate that it will not place an undue burden, or create problems of congestion on the surrounding transport network. The proposal would therefore be contrary to policy T5 of the Local Plan and paragraph 108 of the NPPF.
5.	Insufficient information has been received to determine the likely impact of the proposals upon the Greenway Corridor Local Wildlife Site (LWS) and habitats. Furthermore, in the absence of an ecological mitigation and management plan to quantify the net biodiversity gains/losses, as well as the biodiversity enhancements/management for the site, the Local Planning Authority is unable to determine whether the scheme will result in a loss in biodiversity. The scheme is thereby contrary to paragraph 175 of the NPPF (2019) and policy NR3 of the emerging Borough Local Plan.

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Coppinger “To ensure that this excellent service is able to continue its vital work and that a flooded gravel pit is used for a service which will protect a magnificent bird.”

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located north west of Bray Watersports, accessed via a small bridge over ‘The Cut’. The site at present is relatively open land, surrounded by dense vegetation and trees. Bray Lake (north) is located to the north east of the application site and Bray Lake and the watersports centre to the south. The main access road to the site is via Monkey Island Lane.
- 3.2 The land upon which the application is proposed is designated green belt land and located within Flood Zones 2 and 3.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 4.1 This application seeks consent for the erection of a swan rehabilitation and care centre. It is proposed to access the site via the existing bridge and construct a building approximately 322sqm in footprint. 110.6 sqm of this would be used for the treatment and care of the swans, and the remaining 211sqm for servicing/storage (80sqm), office/reception (14.7sqm), education/exhibition centre (61.4sqm) and circulation (55.1sqm). The entire building is raised with a void of approximately 5 metres and a raised deck area surrounds the building. A car park with parking for 4 vehicles would be located adjacent to the proposed building.
- 4.2 The site is to be occupied by Swan Support, which is a registered charity that provides swan rehabilitation, rescuing, treatment and care for sick and injured swans within the Thames Valley and surrounding areas. They seek to educate the public about the detrimental effects that human behaviour, vandalism, cruelty and carelessness can have on swans and other water birds and train various organisations such as the RSPCA, Highways Agency, Fire Brigade, Royal Parks personnel, Police and Network Rail.
- 4.3 Swan Support is currently based at Queen Mother Reservoir, Horton Road, Datchet but this site, by its nature, is unsuitable for long term use, and is a temporary solution for the charity whilst planning for a more permanent and long term facility is found.

Application Ref	Description of Works	Decision and Date
18/00954/FULL	Construction of a single storey building as headquarters for Swan Support with associated parking. Land bounded by The Cut and the M4, Upper Bray Road.	Withdrawn. 25.10.2018

5. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

- 5.1 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
Highways	P4 and T5
Trees	N6
Green Belt	GB1, GB2
Flooding	F1

These policies can be found at

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

6. 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
- Section 13- Protecting Green Belt land
- Section 14- Meeting the challenge of climate change, flooding and coastal change
- Section 15- Conserving and enhancing the natural environment

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Development in the Green Belt	SP5
Managing Flood Risk and Waterways	NR1
Trees, Woodlands and Hedgerows	NR2
Nature Conservation	NR3
Environmental Protection	EP1
Sustainable Transport	IF2

6.1 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.

6.2 This document can be found at:
https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1

Supplementary Planning Documents

- RBWM Interpretation of Policy F1

Other Local Strategies or Publications

6.3 Other Strategies or publications material to the proposal are:

- RBWM Parking Strategy
- Affordable Housing Planning Guidance

More information on these documents can be found at:
https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning

7. CONSULTATIONS CARRIED OUT

Comments from interested parties

3 residents were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 15th August 2019.

1 letter was received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. Concern with accidents from birds landing on Bray Lake where watersports operate.	Noted, not a material planning

		consideration.
2.	Question whether depth of the water in the gravel pit is suitable or whether engineering would be required to create this. No provision for fresh water or disposal of contaminated waste water.	Noted.
3.	A well established and equipped swan charity (Swan Lifeline) already exists 3-4 miles away in Eton, with staff accommodation. They are questioning why one is needed in this location.	Noted
4.	Concern that existing public access around the building will be affected.	The applicant has provided details to show that the footpath and walks around will be unaffected.

4 letters were received supporting the application, summarised as:

Comment		Where in the report this is considered
1.	Support construction of the building to enable them to continue their work	
2.	Education centre is vital to educate on the ecology of swans, their habitat and ecosystem	

Statutory consultees (summarised)

Consultee	Comment	Where in the report this is considered
Environment Agency	<p>Site is located in Flood Zone 3b Functional Floodplain. The development falls within a flood risk vulnerability category that is inappropriate to the flood zone.</p> <p>This is a sensitive location for groundwater. The risks to groundwater have also not be demonstrated through this application. For these two reasons, refusal is recommended.</p>	Section iii

Consultees (summarised)

Consultee	Comment	Where in the report this is considered
Highways	No objection is raised to the swan re-habilitation centre. However, in the absence of detail relating to the education centre such as potential numbers, frequency of use, additional car parking, refusal recommended as it has not been demonstrated the scheme will not have a detrimental impact on the highway network.	Section v
Ecology	A number of biodiversity enhancements have been recommended as part of this application. However, it is not clear as to whether or not these can and will be included within the development, or whether they will provide a net gain in biodiversity. In addition it is not clear as to how much of the woodland/ scrub and other habitats are to be lost as part of this application. An ecological mitigation and management plan is required in order to quantify the net biodiversity gains/losses, as well as the biodiversity	Section iv

	enhancements/management for the site. Insufficient information has also been received to determine the likely impact of the proposals upon the Greenway Corridor Local Wildlife Site (LWS) and habitats.	
Environmental protection	No objection – conditions recommended relating to contaminated land	
Trees	To be reported in panel update	
Parish Council	Recommend for approval subject to positive reports from Ecology, the Environment Agency and Highways. The Parish Council requests that the security lighting is reviewed to ensure no inappropriate lighting pollution is caused.	

8. EXPLANATION OF RECOMMENDATION

8.1 The key issues for consideration are:

- i Green Belt;
- ii Character and Appearance;
- iii Flooding;
- iv Ecology;
- v Highways and Parking;
- vi Neighbour Amenity;
- vii Trees;
- viii Planning Balance and the case for very special circumstances.

i Green Belt

8.2 Policy GB1 of the Local Plan lists the types of development which could be granted approval in the Green Belt. It does refer at (2) to essential facilities for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. Part (a) of Policy GB2 of the RBWM Local Plan addresses the effect of a proposed development on openness and the purposes of including land in the Green Belt.

8.3 Policy SP1 (Spatial Strategy) of the emerging Borough Local Plan states that the Green Belt will be protected from inappropriate development in line with Government policy. Policy SP5 (Development in the Green Belt) reflects Green Belt policy outlined in section 13 of the NPPF (2019). The Local Plan was prepared in accordance with the cancelled PPG2: Green Belts while the BLPSV was prepared in accordance with the NPPF (2012). The NPPF is considered to be a more up-to-date expression of Government intent and is afforded significant weight as a material consideration. While the Development Plan comprises of the Local Plan, policies GB1 and GB2 are not entirely consistent with the NPPF and are not given full weight for the purposes of this assessment. Under transitional arrangements the BLPSV is assessed against the NPPF (2012) and therefore policy SP5 is considered to be consistent in this respect, but due to unresolved objections policy SP5 should only be given moderate weight as a material consideration.

8.4 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The construction of new buildings within the Green Belt is regarded as inappropriate development and paragraph 144 of the NPPF states that inappropriate development is by definition, harmful and should not be approved except in very special circumstances. Paragraph 144 continues to state that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations.

- 8.5 The construction of new buildings in the Green Belt is regarded as inappropriate development unless it comes within the exceptions listed in paragraph 145 of the NPPF.
- 8.6 Neither the proposed change of use of the land to a swan sanctuary nor the proposed building to support the proposed use would fall within the exceptions listed within the NPPF. The proposed development as a whole would therefore amount to inappropriate development for the purposes of the Framework.
- 8.7 The proposal would also conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. In terms of actual openness, the proposal would introduce a building where there is currently none and there would be incidental activity from the use including the parking of cars by staff/volunteers, deliveries, visitors etc.
- 8.8 For the reasons set out above, the proposal is considered to constitute inappropriate development in the Green Belt. Furthermore, the proposal would result in actual harm to openness. Paragraph 144 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt, that such harm should be apportioned substantial weight and that the proposed development should not be approved except in very special circumstances (VSC). Accordingly, for such a development on this site to be considered to accord with the above planning policies, very special circumstances (VSC) must be demonstrated which clearly outweigh the substantial harm caused to the Green Belt and any other harm identified, including any harm to openness and any encroachment of the countryside. The case for very special circumstances is considered below.

ii Character and Appearance

- 8.9 Section 12 of the NPPF (2019) deals with achieving well designed places and the delivery of developments that will function and contribute to the overall quality of the area in the long term. To achieve this, development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; they should be sympathetic to local character and history, including the surrounding landscape setting
- 8.10 Local Plan policy DG1 sets out design guidelines and requires new buildings to be compatible in terms of the scale and height of adjacent properties and materials should be sympathetic to the traditional materials of the area.
- 8.11 Emerging policy SP3 requires development to respect and enhance the local, natural or historic character of the environment, paying particular regard to amongst other things scale, bulk, massing and materials.
- 8.12 The main characteristics of the site are its undeveloped and open character. The Landscape Assessment (2004) identifies this area as consisting of flooded former gravel pits, however, despite their extensive nature, they are not often visible because of the low lying nature of the landform. As a result, the topography of the site is such that the proposed introduction of a building and ancillary features would result in a reduction in the openness of the site to the detriment of the surrounding area.

iii Flooding

- 8.13 Local Plan policy F1 states that within areas liable to flood, development will not be permitted unless it can be demonstrated that the proposal would not of itself, or cumulatively in conjunction with other development 1) impede the flow of flood water; or 2) reduce the capacity of the flood plain to store flood water; or 3) increase the number of people or properties at risk from flooding.
- 8.14 The application site lies within Flood Zone 3 which is land defined by the planning practice guidance as having a high probability of flooding. In addition, most of the site lies within the 5% annual exceedance probability flood extent, defined as Zone 3b functional floodplain (as defined in the RBWM Strategic Flood Risk Assessment).

- 8.15 In accordance with the Planning Practice Guidance (PPG) and NPPF, whilst a sequential test would not be required for the change of use of the land, it would be required for the proposed building. The aim of the Sequential test is to ensure that areas at little or no risk of flooding are developed, in preference to areas at higher risk, through keeping development out of medium and high flood risk areas where possible. The Sequential Test requires that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 8.16 A sequential test has been submitted that has compared the proposed development site with all other suitable sites within the Borough. It has discounted sites that are undeliverable or not available, too small or large to provide a similar development and site layout, those that are not near to or have a water feature for swan rehabilitation, or at a greater flood risk than the proposed site.
- 8.17 Of the sites in the HELAA, 4 sites were identified as being suitable in terms of their size, siting and availability. However on assessment, none of these would have a lower probability of flooding. The proposal is therefore considered to have passed the sequential test.
- 8.18 Whether the proposal is now appropriate in this location in flood risk terms, is dependent on its classification according to flood risk vulnerability. The swan sanctuary is identified as 'water compatible', the proposed office space and car park would be identified as 'less vulnerable', and the educational centre as 'more vulnerable'. The parts of the development classed as 'less vulnerable' and 'more vulnerable' are significant spaces in their size, and combined, occupy nearly half the footprint of the proposed building and surrounding land. In accordance with Tables 1 and 3 of the PPG, it is clear that these types of development are not compatible with this flood zone and should therefore not be permitted. The proposal is thereby contrary to Policy F1 of the Local Plan, NR1 of the emerging Borough Local Plan and paragraph 155 of the NPPF.
- 8.19 Had the scheme been considered compatible in flood risk terms, in accordance with paragraph 163 of the NPPF, an assessment would have been required to ensure that the proposal did not increase flood risk elsewhere. A Flood Risk Assessment (FRA) has been submitted that sets out physical design measures that will be implemented to ensure a flood resilient design. The building will also be constructed on voids which will ensure that there is no loss of fluvial floodplain storage. Overall, had the scheme been found acceptable in flood risk terms, the FRA has demonstrated compliance with paragraph 163 of the NPPF.

Groundwater

- 8.20 The Environment Agency has raised further concerns with the application in relation to groundwater protection. Groundwater is particularly sensitive in this location as the proposed development site sits directly upon a Principle Aquifer within the Shepperton Gravel Member and within an Inner Source Protection Zone for a public water supply abstracting from this gravel Aquifer. Having reviewed the map provided by the applicant of the historic landfill in the area, it is evident that part of the north western portion of the proposed site also falls upon a historic landfill site.
- 8.21 The Environment Agency requires adequate information to be submitted to demonstrate that the risks posed by the development to groundwater can be satisfactorily managed, especially where risk of pollution is high and the groundwater asset is of high value such as in this case. In the absence of this information, the proposal is contrary to Policy NAP4 of the Local Plan and EP5 of the emerging Borough Local Plan.

iv Ecology

Local Wildlife Site and habitats

- 8.22 The Greenway Corridor Local Wildlife Site (LWS) lies immediately to the south of the proposed development site. Development should not adversely affect LWSs – which can be defined as sites of local importance – as per emerging Policy NR3 below:

“Either individually or in combination with other developments, which are likely to have a detrimental impact on sites of local importance, or compromise the implementation of the national, regional, county and local biodiversity actions plans, will not be permitted unless it can be demonstrated that the benefits clearly outweigh the need to safeguard the nature conservation value of the site”

- 8.23 The site also comprises woodland and a lake which are ecologically sensitive habitats and may also classify as Priority Habitats. Priority habitats are listed in Section 41 as being Habitats of Principal Importance for the Conservation of Biodiversity in England as required under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. The ecology report submitted only makes brief reference to the potential impacts of the proposed development on the LWS and other ecologically sensitive areas which could include pollution (light, dust, water), potential additional recreational pressure, and pressure from change of use of the site, and it is unclear as to whether or not the proposed development will require the clearance of habitat such as woodland and scrub.
- 8.24 Given the LWS is located immediately to the south of the proposed development, there are trees/woodland to the north and east, and a lake to the north. Insufficient information has been received to determine the likely impact of the proposals on the designated site and habitats. Details of the protection of designated sites and wildlife sensitive habitats (the lake and woodland) are required to allow the assessment of such, in addition to details for the prevention/mitigation of air, water and light pollution as well as recreational pressure and use of the site by swans. In the absence of such, the scheme is contrary to paragraph 175 of the NPPF.

Badgers

- 8.25 No badgers or their setts were recorded on site however, there were three mammal holes within 30m of the proposed development, which could be used by badgers. The applicant's ecologist has concluded that the mammal holes were not being used at the time of survey. However, given that badgers are mobile animals and could start using mammal holes, the applicant's ecologist has provided a number of recommendations in order to safeguard badgers during and after construction. These include an updated survey prior to development and laying planks in any trenches and open pipework. Had the scheme been found acceptable in all other respects, the recommendations would have been secured by condition.

Otter

- 8.26 No otter presence was recorded during the survey. The majority of the site was recorded as being unsuitable for otter, although it was stated that otters could forage within the lake and traverse the site between the LWS and the lake. Had the scheme been found acceptable in all other respects, a method statement would have been required in order to ensure that otters are not harmed during development.

Biodiversity enhancements

- 8.27 Paragraph 175 of the NPPF states that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged”.
- 8.28 A number of biodiversity enhancements have been recommended as part of this application including native species planting, incorporation of bird and bat boxes and eradication of Himalayan balsam and buddleia. However, it is not clear as to whether or not these can and will be included within the development, or whether they will provide a net gain in biodiversity in line with NPPF and policies within the submitted Borough Local Plan. In addition it is not clear as to how much of the woodland/ scrub and other habitats are to be lost as part of this application. It is understood that a large area of woodland was already cleared over winter 2018/2019.
- 8.29 An ecological mitigation and management plan is required in order to quantify the net biodiversity gains/losses, as well as the biodiversity enhancements/management for the site. In the absence of this plan, the Council is unable to determine whether the scheme will result in a loss in biodiversity. The scheme is thereby contrary to paragraph 175 of the NPPF.

v Highways and Parking

- 8.30 Policy T5 of the Local Plan requires proposals to comply with the Councils adopted highway design standards, to ensure developments do not place an undue burden or create problems on the highway network.
- 8.31 The proposed swan sanctuary will require 6 car parking spaces in accordance with the Councils standards. 3 full time members of staff are to be employed on the site and 4 car parking spaces are shown on the submitted plans to which no objection is raised.
- 8.32 In relation to the education centre, the plans demonstrate that this will be able to accommodate at least 24 people. Due to the sites poor accessibility, the proposal will only attract vehicle movements and there is concern over the potential number of visitors. No information has been provided as to how many children/members of the public/professionals are to be invited to the centre and the frequency of events. Further statements from the applicant suggest that this is an essential component of the project and there is interest from a number of different bodies to use this facility. It is likely that groups may travel by minibus/car/coach, however no information has been provided of where additional parking for these visitors would be located. Given the constrained and sensitive nature of the site and access road, the Council is concerned that the scheme would cause undue congestion on the site and surrounding roads, and fail to provide a safe and suitable access for all users.
- 8.33 In the absence of information relating to the frequency of use of the education centre and location of additional parking to accommodate these visitors, the scheme has failed to demonstrate that it will not place an undue burden, or create problems of congestion on the surrounding transport network. The proposal would thereby be contrary to policy T5 of the Local Plan and paragraph 108 of the NPPF.

vi Neighbour Amenity

- 8.34 In line with paragraph 127 of the NPPF it is necessary to ensure that development provides a high standard of amenity for existing occupiers. Emerging policy SP3 requires development 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, sunlight and daylight.
- 8.35 The proposed building would be sited a significant distance from any residential properties and the nearest building is Bray Watersports to the south of the site. As a result, it is not considered that the proposed building would have an unacceptable impact in terms of light, outlook and privacy. Further details regarding lighting could be secured by condition in the event of planning permission being granted to safeguard against light pollution. The proposal would accord with the guidance set out in the NPPF and emerging policy SP3.

vii Trees

- 8.36 At the time of writing this report, comments from the Councils Tree Officer were not available. These will be reported in the panel update.

9. Other Material Considerations

Very Special Circumstances

- 9.1 Paragraph 11 of the NPPF states that 'plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:
- c) Approving development proposals that accord with an up-to-date development plan without delay; or
 - d) 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.
- 9.2 In accordance with the guidance contained in the NPPF there is one balancing exercise which needs to be undertaken in this particular case which is whether the very special circumstances promoted by the applicant would clearly outweigh the harm to the Green Belt and any other harm.
- 9.3 It has been demonstrated that in accordance with national policies, this form of development in the Green Belt is inappropriate development which should not be approved except in very special circumstances. It is concluded that the harm caused by the proposal by reason of it comprising inappropriate development and the harm to the Green Belt through loss of openness should be afforded substantial weight against the development. The issues relating to flooding and biodiversity are also afforded substantial weight.
- 9.4 No case for VSC was provided with this application, however, a previous application (18/00954/FULL) submitted by the applicant on a nearby site, detailed some benefits or very special circumstances of the scheme, which are still considered relevant to the consideration of this application, and have therefore been considered. These include the following:
- educating and raising of awareness of Swan Support's work,
 - raise funds for Swan Support,
 - increase interest in volunteering,
 - raise awareness of Green Belt land for passive recreational use,
 - improvement to ecology/biodiversity of the site
 - site would be more effectively used to the benefit of the community

Planning Balance

- 9.5 Whilst the proposed use of the site as a swan sanctuary has the potential to improve biodiversity on the site, as outlined under section (iv), the method in which this is to be achieved has not been clearly demonstrated by the applicant. Furthermore, it has not been demonstrated that the proposed construction of the building and associated hard-surfacing would not impact on existing habitats. Therefore, very limited weight is given to the potential of the proposal to improve biodiversity.
- 9.6 The development has the potential to provide a community benefit in that it would serve to educate members of the public. However, limited information has been provided to demonstrate that it would in fact provide a community benefit. No detailed information has been provided in respect of the potential use of the education centre. This facility takes up a large proportion of the building, resulting in its increased scale and resultant greater impact on openness. It has not been demonstrated that there is a demand for such an education centre and whilst it has been suggested that it would provide opportunities for schools or organisations to come to site, the evidence provided is limited.
- 9.7 The current situation is that the Swan Sanctuary provide presentations off site at the interested organisations location. Based on the information submitted it would appear to be more of a desire than a need for the swan sanctuary to be able to carry out presentations on their own site, although it is appreciated that all the facilities on site would assist in this. The Council have also been made aware of a similar charity, Swan Lifeline based in Eton, that offer an identical service to the one proposed within this application, providing education/talks mainly off site. The close proximity of a similar charity, already offering such a service to the same groups identified such as schools, RSPCA etc, only raises questions on whether there is a demand for such or whether this has already been met by this existing facility. No evidence has been provided to substantiate the demand for such an education facility. It is also unclear how the proposal would raise funds for Swan Support as was suggested. On this basis limited weight is therefore given to any community benefits resulting from the scheme.

10 CONCLUSION

Based on the above assessment and balancing exercise, it is not considered that very special circumstances exist that would clearly outweigh the harm by inappropriateness and the other harm identified above. The recommendation is to refuse planning permission as the proposal fails to comply with The Development Plan and other material considerations do not weigh in favour of the scheme.

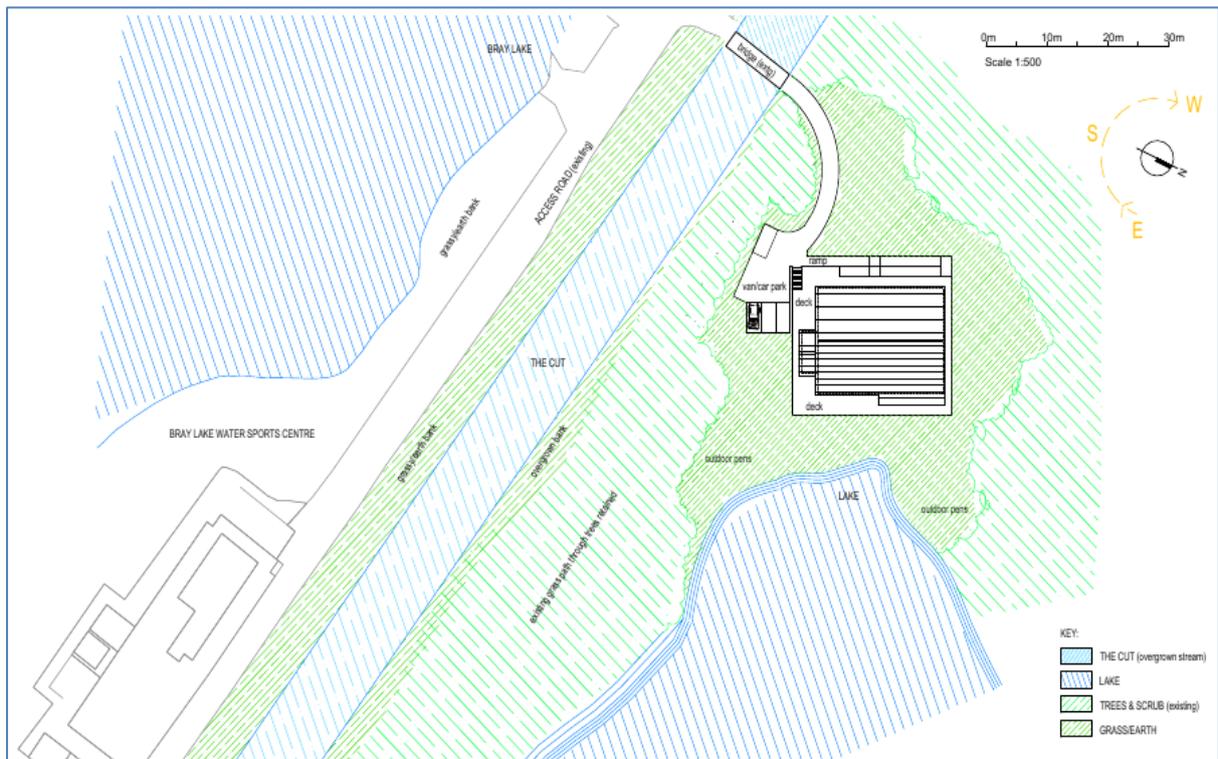
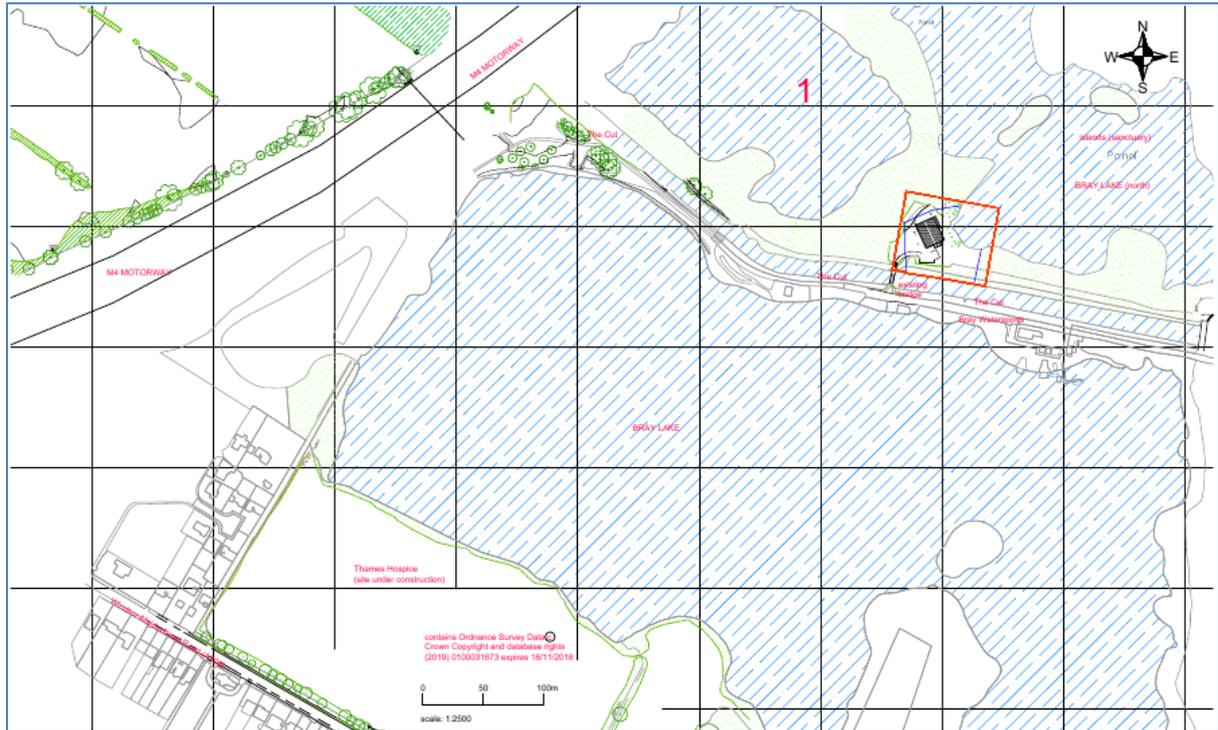
11. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – Ground Floor plan
- Appendix C – Elevation North East
- Appendix D – Elevation South East
- Appendix E – Elevation South West
- Appendix F - Elevation North West.

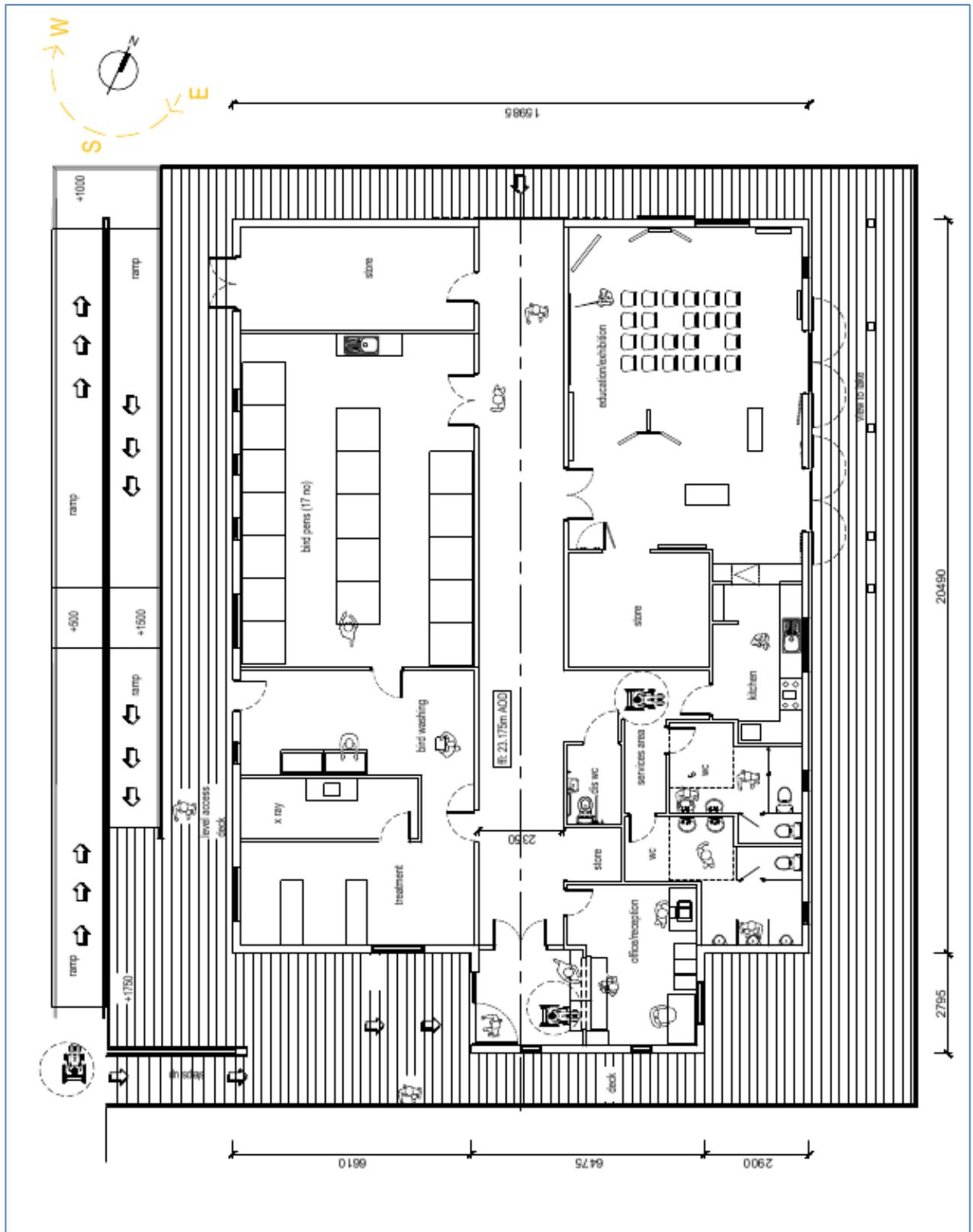
12. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The proposed development constitutes inappropriate development in the Green Belt and would conflict with one of its purposes, which is to safeguard the countryside from encroachment. Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be apportioned to any harm to the Green Belt. It is not considered that any very special circumstances exist that would outweigh the harm identified by inappropriateness and any other harm, and consequently the proposed development would impact on the openness of the Green Belt. The proposal is therefore contrary to paragraphs 133, 143, 144 and 145 of the National Planning Policy Framework (NPPF), the provisions of saved Policies GB1 and GB2(a) of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations adopted June 2003) and policy SP5 of the emerging Borough Local Plan Submission Version (2018).
- 2 The site is located within Flood Zone 3b Functional Floodplain. The scheme is considered unacceptable as it includes elements (car park, office space, education centre) that fall within flood risk vulnerability categories 'less vulnerable' and 'more vulnerable', which are inappropriate to the flood zone. The scheme is thereby contrary to policy F1 of the Local Plan, NR1 of the emerging Borough Local Plan Submission Version (2018) and Paragraph 155 of the NPPF (2019).
- 3 In the absence of any information to establish that the risks posed to groundwater can be satisfactorily managed, the proposal has failed to demonstrate that it would not pollute groundwater in the vicinity of the site. The proposal is contrary to policy NAP4 of the Local Plan and EP5 of the emerging Borough Local Plan Submission Version (2018).
- 4 In the absence of information relating to the frequency of use of the education centre and location of additional parking to accommodate these visitors, the scheme has failed to demonstrate that it will not place an undue burden, or create problems of congestion on the surrounding transport network. The proposal would thereby be contrary to policy T5 of the Local Plan and paragraph 108 of the NPPF.
- 5 Insufficient information has been received to determine the likely impact of the proposals upon the Greenway Corridor Local Wildlife Site (LWS) and habitats. Furthermore, in the absence of an ecological mitigation and management plan to quantify the net biodiversity gains/losses, as well as the biodiversity enhancements/management for the site, the Local Planning Authority is unable to determine whether the scheme will result in a loss in biodiversity. The scheme is thereby contrary to paragraph 175 of the NPPF (2019) and policy NR3 of the emerging Borough Local Plan.

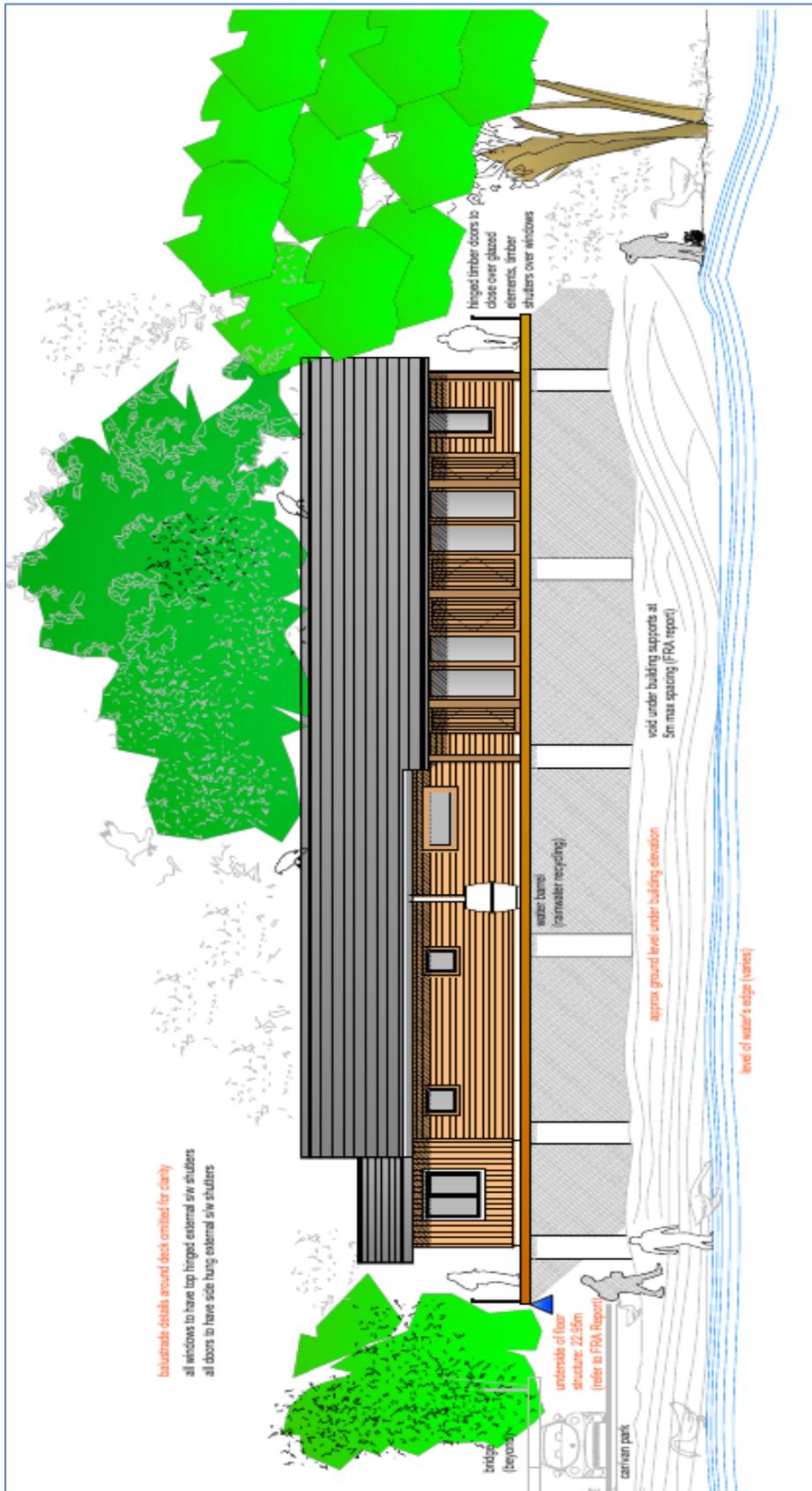
Appendix A – Site Local plan and site layout



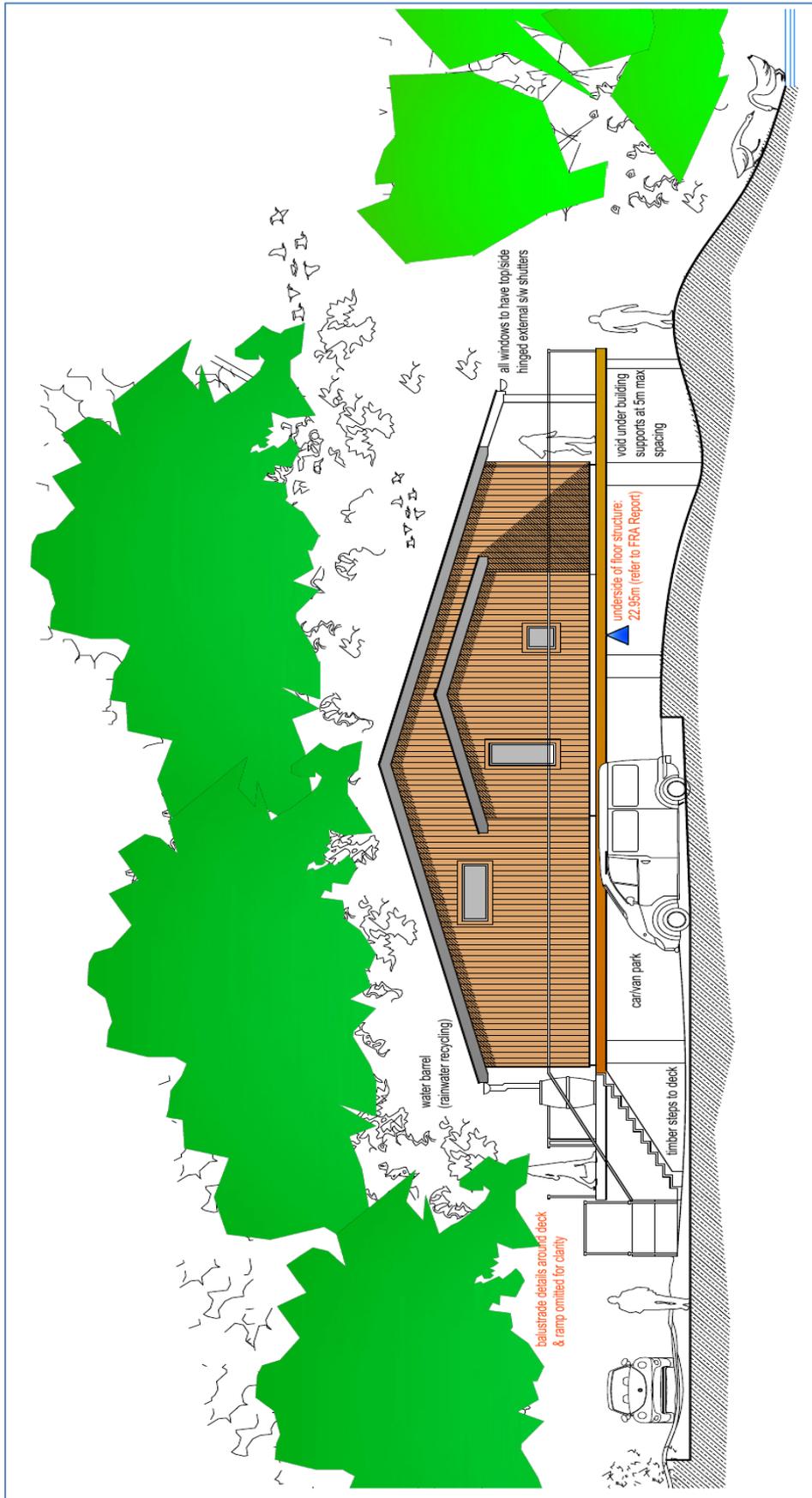
Appendix B – Ground floor plan



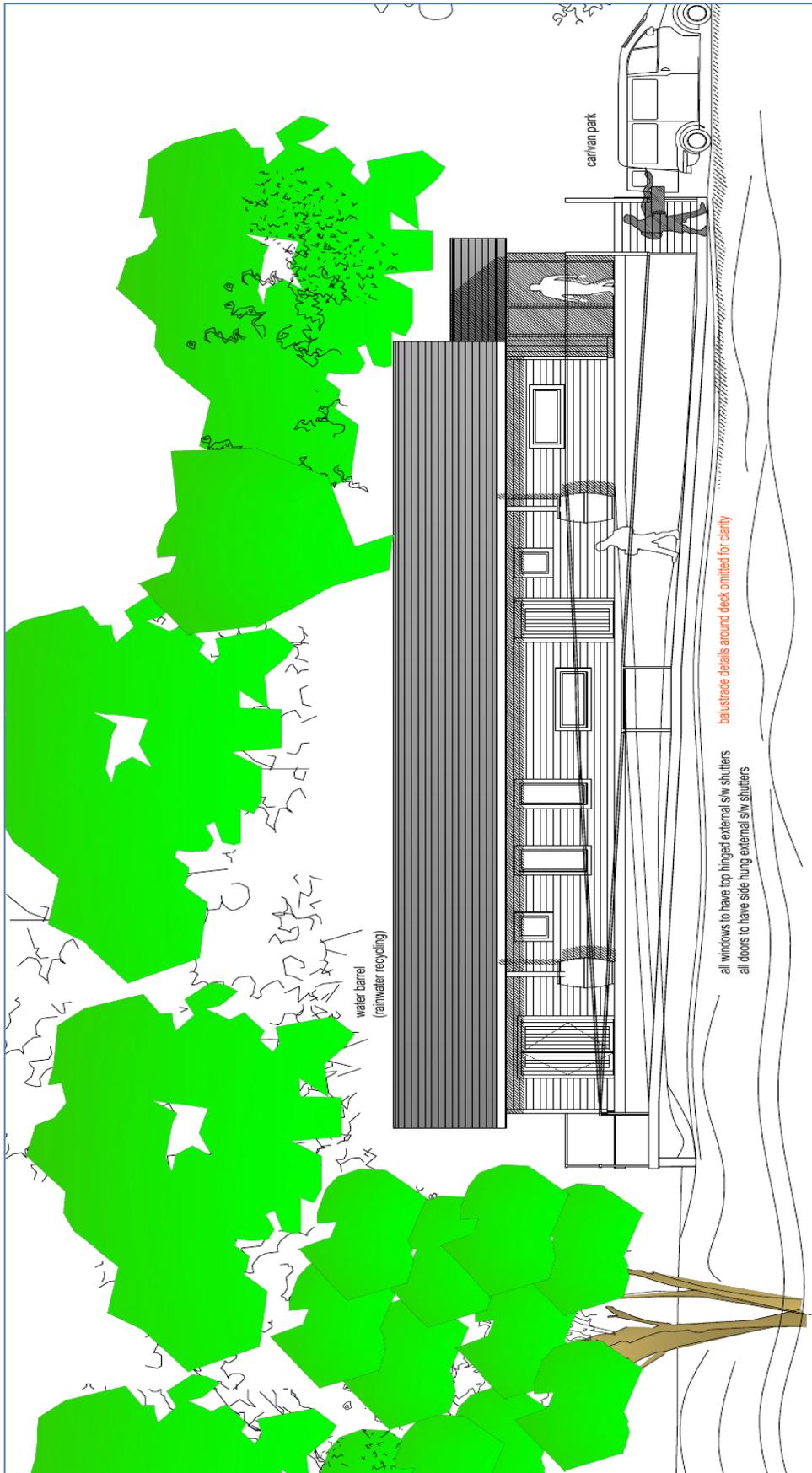
Appendix C – North east elevation



Appendix D – Proposed south east elevation



Appendix E – Proposed south west elevation



Appendix F – Proposed north west elevation

