

DEVELOPMENT CONTROL PANEL

6 November 2019

Item: 6

Application No.:	19/00729/FULL
Location:	Beechgrove And Cottage At Beechgrove Church Lane Ascot
Proposal:	Erection of a building comprising of 14 apartments plus basement parking, relocation of the existing Church Lane access, and new landscaping following demolition of the existing dwelling and all associated outbuildings
Applicant:	Mr Barter - Millgate
Agent:	Not Applicable
Parish/Ward:	Sunninghill And Ascot Parish/Ascot And Cheapside Ward
If you have a question about this report, please contact: Jo Richards on 01628 682955 or at jo.richards@rbwm.gov.uk	

1. SUMMARY

- 1.1 The proposed development is defined as inappropriate by national and local Green Belt policy and is harmful by virtue of its inappropriateness and the loss of openness within the Green Belt. This harm collectively attracts **substantial weight**.
- 1.2 The site lies within 5km of the Thames Basin SPA. The applicant has chosen to mitigate the harm arising from residential intensification through a financial contribution towards an existing SANG outside the Borough. A legal agreement is being drafted in this regard. Provided this can be secured the required Appropriate Assessment will have been passed and as such the harm to the integrity of the SPA will have been mitigated.
- 1.3 No other harm has been identified as a result of the proposal, the development being acceptable in highways terms and having minimal impact on the character of the area and neighbouring amenity.
- 1.4 The applicant has put forward a case of Very Special Circumstances which demonstrates that the proposed development would have a similar impact on the Green Belt to the approved replacement dwellinghouse, which would be built out if planning permission is not forthcoming for the current proposal. Furthermore, the current proposal would result in a net increase of 13 dwellings which would be of benefit to the proposal. As such it is considered in this case that there are Very Special Circumstances which justify the approval of inappropriate development in the Green Belt.

It is recommended the Panel authorises the Head of Planning:	
1.	To grant planning permission subject to the following: <ol style="list-style-type: none">i. Favourable comments from the LLFA relating to SuDs;ii. The completion of a satisfactory legal agreement securing mitigation for the harm to the SPA; and with the conditions listed in Section 14 of this report.
2.	To refuse planning permission if: <ol style="list-style-type: none">iii. The LLFA maintains their objection to the applicationiv. A satisfactory legal agreement securing mitigation for harm to the SPA is not secured

2. REASON FOR PANEL DETERMINATION

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

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 Church Lane is a no-through road that provides access to St Michael and All Angels Church, a number of large residential properties and Ashurst Park office and business park. The site itself comprises a substantial detached dwelling set in generous grounds with a number of ancillary outbuildings some of which are located along the frontage and partially obscure views into the site.
- 3.2 The size of the plot is substantial, although much of it is covered by paddocks rather than forming part of the formal residential garden of the existing dwelling, however, the area covered by the formal residential garden is still significant. The existing dwelling was formerly a Listed Building. The Coach House, which resides at the site frontage is considered to be an ancillary unit of accommodation. The site is situated in the Green Belt.
- 3.3 The site also lies within 5km of the Thames Basin Heaths SPA. A number of mature trees lie within the site and along the site boundaries. The site is defined as 'Settled Woodland Sands' in the Council's Landscape Character Assessment, for which trees are a major contribution to this classification.

4. KEY CONSTRAINTS

- 4.1 Green Belt

Thames Basin Heaths SPA

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The site has a quite complex planning history. The recent planning history is summarised in the table below and a detailed explanation follows.

Application Ref	Description of Works	Decision and Date
18/02547/FULL	Erection of 15 dwellings comprising a building accommodating 12 apartments plus basement parking, and three detached houses with detached triple garages. Re-use of the existing access from Church Lane to serve the apartments, plus the creation of a new access to serve the detached houses following demolition of all existing buildings and outbuildings.	Withdrawn 18.12.2018 Concerns raised regarding impact on the Green Belt
16/02465/FULL	Demolition of part of the existing coach house and the construction of a replacement single storey side extension.	Permitted 16.09.2016 Implemented
13/03571/CPD	Certificate of lawfulness to determine whether proposed construction of a replacement dwellinghouse as approved under application 10/02873/FULL is lawful, following works to construct access to implement the permission	Certificate granted 14.01.2014
13/02170/FULL	Demolition of part of the existing coach house and the construction of a replacement single storey side extension	Permitted 09.09.2013
10/02973/FULL	Replacement dwelling	Permitted 22.02.2011 (Implemented)
10/01350/CPD	Certificate of Lawfulness to determine whether the existing building works for the development of planning permission 08/00496 are lawful	Permitted in July 2010
10/01349/CPD	Certificate of Lawfulness to determine whether the existing building works for the development of planning permission 07/01715 are lawful	Permitted in July 2010
09/00013/FULL	Construction of a replacement 14 bedroom detached dwelling, following demolition of	Withdrawn in March 2009

	existing. Demolition of 2 staff cottages and outbuildings and construct 2 x 3 bedroom staff lodge houses. Relocation of main vehicular access	
08/00496/FULL	Three storey side extension with basement	Permitted in April 2008
07/01715/FULL	Three storey side extension with basement (to reinstate previously demolished North Wing)	Permitted 9.08.2007

- 5.2 The existing dwelling was originally constructed in the early 18th Century and was extended in the 19th and 20th Centuries. The majority of the 19th Century extensions were demolished in the 1950's. Since the demolition in the 1950's there have been a number applications for extensions, although many of the permissions have not been implemented and the extensions and outbuildings which have been erected are reasonably small in size. The property was formerly a Grade II Listed Building, although the property was 'de-listed' by the Department for Culture Media and Sport on the 21st August 2006.
- 5.3 A planning application to re-instate the property to its former size, as it was in 1948 (this being the size of the original dwelling for the purposes of applying Green belt policies) before the 1950's demolition of the 19th Century extensions, was approved in 2007 under application ref. 07/01715. An application to extend the property to its size in 1948 and to add further extensions to the northern end of the property was also approved in 2008 (ref. 08/00496). This would have resulted in a total increase in the floor area of the property of about 40% over and above the floor area of the original property (as it existed in 1948).
- 5.4 Permission was granted for a sizable replacement dwelling under planning application reference 10/02973/FULL on the grounds that it would not be materially more harmful than the existing dwelling plus the consented extensions, which had been established as being lawfully implemented (refs 10/01349 & 10/01350). Whilst this permission for a replacement dwelling dates back to 2011, it was established that this permission had been lawfully implemented through the granting of a certificate ref: 13/03571/CPD. Permission also exists for extensions to the coach house along the site frontage, ref: 16/02465 which the applicant states has been lawfully implemented. It should be noted that whilst several of these earlier permissions have been implemented through the commencement of minor building operations, none have been progressed further and as such the development which exists on site is significantly smaller than the consented replacement dwelling and the coach house remains un-extended.
- 5.5 The current proposal is for the erection of a building comprising 14 apartments (6 x 2-bed and 8 x 3-bed) following demolition of the existing dwelling, the Coach House and the associated outbuildings. The proposal includes the relocation of the existing access to a central position along the site frontage. This access point will lead to small roundabout, with 6 car parking spaces at surface level and a driveway leading down towards a basement around the south side of the building where the remainder of the parking would be provided.
- 5.6 The proposed apartment building is similar in scale and siting to the approved replacement dwellinghouse which can lawfully be built out at any time. Specifically it has a ridge height of 9.5m (when measured from the ground level immediately to the front of the building), a main two-storey width of approximately 40m and a main two-storey depth of approximately 30m. The building contains a basement/lower ground floor level which would contain parking within the frontage parts and two lower ground floor apartments with a rear or west aspect. This lower ground floor would be partially visible when the building is viewed from the rear.

6. DEVELOPMENT PLAN

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

Adopted Royal Borough Local Plan (2003)

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10,H11
Impact on the Green Belt	GB1 and GB2
Highways	P4 and T5
Trees	N6
Mitigation for Thames Basin Heath Special Protection Area	T6, R3, IMP1

These policies can be found at 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 and Environmental Considerations	EN1, EN2, EN3 and EN4

These policies can be found at 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
- Section 13- Protecting Green Belt land
- Section 14- Meeting the challenge of climate change, flooding and coastal change

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Appropriate Development in Green Belt and acceptable impact on Green Belt	SP1, SP5
Design in keeping with character and appearance of area	SP2, SP3
Provision of High Quality Housing	H02, H03, H05
Manages flood risk and waterways	NR1
Trees, Woodland and Hedgerows	NR2
Nature Conservation	NR3
Makes suitable provision for infrastructure	IF1

- 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

Supplementary Planning Documents

- RBWM Thames Basin Health's SPA

Other Local Strategies or Publications

- 7.3 Other Strategies or publications material to the proposal are:
- RBWM Townscape Assessment
 - 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

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

57 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 21.03.2019 and the application was advertised in the Local Press on 28.03.2019.

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

Comment		Where in the report this is considered
1.	The proposal has not changed much since the previous application.	The amended proposal includes the omission of 3 detached dwellings
2.	The proposal is contrary to the Neighbourhood plan which envisages the peripheries of Ascot and Sunninghill to be characterised by individual large houses (mansions) in their own gardens	The proposed development is of a similar size and appearance to a large mansion house
3.	A block of 14 apartments right on the edge of Sunninghill, adjacent to relatively undisturbed wildlife areas is inappropriate development	Section section i
4.	The size and style of the proposed apartment block is out of keeping with nearby properties and represents overdevelopment of this site	See section ii
5.	Impact on the Green Belt	Section i
6.	The development is within the catchment of Chobham Common SPA	Section vi

7.	The new apartments will generate significant additional traffic on Church Lane putting more pressure on Sunninghill roundabout	Section iv
8.	Impact on local community and services	The proposal is subject to CIL
9	Impact on infrastructure including sewerage, water pressure, electricity and gas.	The proposal is subject to CIL
10.	The visual impact is only accepted if the 3D views retaining the look of Church Lane including additional planting are actioned	Additional landscaping will be sought via condition
11.	Impact from noise and dust during demolition and construction	Not a material planning consideration
12.	Support is only given if the access to Church Lane is clear and safe at all times particularly with regard to HGV access/queuing not impacting on the roundabout and church services. The church end of Church is not to be used for turning by HGVs for safety.	The application is supported by the Highways Authority

Statutory consultees

Consultee	Comment	Where in the report this is considered
LLFA	Further information required. Application currently unacceptable	Further information has been sought from the applicant. See section ix

Consultees

Consultee	Comment	Where in the report this is considered
Parish Council	<p>Objections:</p> <ul style="list-style-type: none"> apartments are an inappropriate development in the green belt, contrary to NPPF 143 and LP GB3 The VSC is very weak Intensification of use, contrary to LPB2 B2. Out of Character with the surrounding properties, attention being drawn to 12a and 12b of Landmark buildings and Views listed in the Neighbourhood Plan, contrary to LP DG1.3 and NP/DG2.1. Contrary to LP GB2A: By virtue to its massing and height when viewed from the west it reduces the openness of the green belt when compared with the consented replacement dwelling. Contrary to NP/H2 and LP H8 – Mix of Housing Types. In recent planning approvals apartments dominate and skew the housing mix. No affordable homes proposed, contrary to LP policies on affordable homes including emerging LP policy HO3. Contrary to condition 3 of the consent to the replacement dwelling (10/02973) The application doesn't take into account the existing buildings along the wall. It is argued that these don't have a significant impact upon the openness of the 	<p>Amended plans have been submitted to reduce visual impact of building when viewed from the west.</p> <p>Other matters discussed in main body of report</p>

	green belt. By proposing to demolish these buildings and increase the consented replacement by a similar floor area will, in the committee's judgement, increase the impact on the openness of the GB. This impact is increased by the form and height of the apartments when viewed from the west.	
Highways	No objections subject to condition	Noted
Trees	No objection subject to condition	Noted
Ecology	No objection subject to conditions	Noted
Bracknell Forest Council	The AA is acceptable subject to the completion of a legal agreement	Noted
Natural England	No objection. Further consultation sent following updated AA and consultation with BFC	The recommendation is subject to SPA mitigation being secured.

Others

Group	Comment	Where in the report this is considered
SPAE	<p>1. First we recognize the improvements that the applicant has made to the initial application (18/02547), in particular, by removing the three detached houses.</p> <p>2. We would like to be assured that the case officer is satisfied that the scale and bulk of the proposed flatted development is compliant with NP/DG2, given that the site is within the Green Belt.</p> <p>3. Finally, we would like to restate our concerns about traffic. The A329 is very narrow on this stretch and in fact is virtually single carriageway when large vehicles exit the roundabout heading towards Ascot, as they have to use both lanes. Also, it is intimidating for cyclists cycling up the hill as the road is so narrow and vehicles are held up behind for up to 300 metres. i.e. It is impossible to overtake a cyclist. There is a once in a lifetime opportunity for the Council and Highways' authorities to secure developer contributions to finance the widening of the A329 between the roundabout at the top of the hill at the junction with Church Lane and the bottom of the hill towards Ascot. Please can this opportunity be seized?</p>	<p>See section i and x for comprehensive Green Belt assessment and consideration of VSC</p> <p>The application is supported by the Highways Authority</p>

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Whether the development is inappropriate development in the Green Belt, whether there is any other harm to the Green Belt, and whether there are Very Special Circumstances to outweigh the harm by inappropriateness
- ii Impact on the Character of the Area
- iii Impact on Residential Amenity
- iv Parking/Highways considerations

- v Trees
- vi Ecology
- vii Development Brief
- viii Affordable Housing
- ix Flood Risk
- x Case for Very Special Circumstances (VSC)

- **Green Belt**

- 9.2 Paragraph 143 of the NPPF explains that inappropriate development in the Green Belt is harmful and that it should only be approved in Very Special Circumstances. Paragraph 144 continues by stating that when considering planning applications, substantial weight should be given to any harm to the Green Belt. "Very Special Circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 9.3 Adopted Local Plan policies GB1 and GB2, whilst dated, largely reflect the national Green Belt policy position by only allowing a few certain forms of development, other than in Very Special Circumstances. Policy SP5 of the Borough Local Plan submission version states that the Metropolitan Green Belt will continue to be protected, as designated on the Policies Map, against inappropriate development. Permission will not be given for inappropriate development (as defined by the NPPF), unless very special circumstances are demonstrated.
- 9.4 The proposal is for a new apartment building within the Green Belt. Paragraph 145 of the revised NPPF outlines that the construction of new buildings should be regarded as inappropriate development apart from a few limited exceptions. Part (d) of paragraph 145 of the NPPF allows for the replacement of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces. The new building in this case is for a different use to the existing (flats as opposed to a single dwellinghouse and ancillary coach house) and therefore the proposal could not be deemed as appropriate development under this exception. Exception (g) is for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary building), which would not have a greater impact on the openness of the Green Belt than the existing development. Essentially, the proposal could be deemed appropriate development under this exception if there would be no greater impact on openness, which will be explored below.
- 9.5 The proposed flatted development is of materially bigger proportions than the buildings to be demolished (the dwellinghouse and coach house). The comparison here is the proposed development against the existing development that is in situ now and not against the consented schemes for the replacement dwelling (10/02973/FULL) and enlarged coach house (16/02465/FULL). The proposal is considered to have a greater impact on the openness of the Green Belt than the existing development by reason of the significant increase in built form, comprising a building of materially bigger footprint and mass than the existing dwellinghouse. Furthermore, the form of development is more urban in its appearance with the creation of a central turning area, forecourt and basement ramp. Whilst the height of the development has been limited to that of the existing dwellinghouse, when viewed from the rear it would appear as a four storey building due to the lower ground floor area being exposed. Furthermore, the design of the building would result in it having a greater visual presence within the site and the surroundings than the existing building and coach house which are more traditional designed and subservient in their form. As such, it has to be deduced that the proposed development has both a greater spatial and visual impact on the openness of the Green Belt than the existing development and therefore the development constitutes inappropriate development in the Green Belt.

9.6 In addition to the harm by virtue of inappropriateness, as stated above the harm to openness from the increased footprint and bulk of development also needs to be weighed on this side of the balance. As stated above, there would be an impact on spatial openness by virtue of a greater amount of development within the site. Furthermore, the appearance of the building has a more dominating effect than the existing dwellinghouse and would generate increased activity through vehicular movements; paraphernalia and general intensification of the site such that there would be harm to visual openness.

9.7 In summary the proposals are contrary to paragraphs 145 and 146 of the NPPF, Local Plan policies GB1 and GB2(a) and Policy SP5 of the Borough Local Plan submission version because the proposal would result in harm by virtue of inappropriateness and harm to openness of the Green Belt. **This collective harm to the Green Belt is afforded substantial weight in accordance with paragraph 144 of the NPPF.** It is therefore necessary for the Local Planning Authority to consider whether Very Special Circumstances (VSC) exist that would clearly outweigh the harm to the Green Belt and any other harm resulting from the proposal. This case is considered in detail towards the end of the report.

- **Impact on the Character of the Area**

9.8 Policy DG1 of the Local Plan requires that new developments should promote high quality standards of design, be compatible with the established street scene and use appropriate materials. Furthermore, the site lies in Sunninghill, which is governed by the Ascot, Sunninghill and Sunningdale Neighbourhood Plan which is a more recent addition to the Development Plan (adopted April 2014). Neighbourhood Plan policy NP/DG3 (Good Quality Design) states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area. Development that fails to take the opportunities available for enhancing the local character and quality of the area and the way it functions shall not be permitted. A central part of achieving good design is responding to and integrating with local surroundings and landscape context as well as the built environment.

9.9 Church Lane, although rural in nature, comprises a limited amount of built development on both the west and east side of the road, including dwellings, office buildings and a church and church hall. Immediately to the south of the site boundary lies the settlement area of Sunninghill which comprises a denser grain of residential development including flats and dwellinghouses. As such there is no objection to the provision of a flatted development in this location in terms of the impact on the character of the street scene and the area in general.

9.10 With regard to the layout and scale of development, it is considered that due to the set-back of the building from the road and the large gaps that would be retained to the flank boundaries of the site, the proposed development would appear spaciouly set out within the substantial grounds of the plot.

9.11 With regard to external appearance the apartment building would have the potential to appear prominent due to the design detail and number of windows. However, it is acknowledged that the consented scheme for the replacement dwellinghouse also takes on a very grand appearance and thus no objections are raised with the regard to the external appearance of the development.

- **Impact on Residential Amenity**

9.12 The proposed development is sited centrally within the site and is a significant distance from neighbouring residential properties to the north and east. Also taking into account the intervening tree screening along the site boundaries, the proposals would not result in loss of light or privacy for the occupiers of neighbouring residential properties. Therefore, given the distance from neighbouring properties it is not considered that it would result in any undue harm to neighbouring occupiers.

- **Parking/Highways**

- 9.13 The site currently benefits from one vehicular access off Church Lane which is 22m north from the roundabout junction with the A329 London Road. A new vehicular access is proposed to be created off Church Lane and will be positioned further north, 50m from the roundabout junction. This new access is considered acceptable by the Highways Authority in terms of its location and the stopping up of the existing access can be conditioned (condition 7).
- 9.14 Within the Transport Statement the applicant has confirmed that the wall will be repositioned to enable the new access to achieve visibility splays of 2.4m x 43m to the left and right which are acceptable. The access is provided with a new set of gates which will be setback 5.0m from the back edge of the adopted highway, which complies with the authority's standards. As the plans show the position of the gates, a condition is not needed in this regard.
- 9.15 A large turning head is provided within the site to enable a delivery vehicle for example to enter and exit the site in a forward gear.
- 9.16 The only details submitted for the proposed ramp shows the gradient of the ramp to the basement car park will be 1:10. The Highway Authority will require that the ramped access complies with the recommendations as set out in The Institution of Structural Engineers "Design recommendations for multi-storey and underground car parks". Therefore, the applicant will need to submit a cross sectional and longitudinal plans of the ramp showing the level changes. This has been requested via condition (Condition 8).
- 9.17 The site is located within an inaccessible area and therefore to comply with the Local Authorities current Parking Strategy (May 2004) a 2 or 3-bedroom unit will be required to provide 2 car parking spaces. The application includes 6 x 2-bedroom flats and 8 x 3-bedroom flats therefore the site will need to provide 28 car parking spaces (2 per dwelling). The scheme provides 2 spaces for each unit with an additional 3 visitor spaces. Whilst this would constitute a slight overprovision in parking spaces, on-street parking is limited in the immediate vicinity and as such there is no objection to the additional 3 visitor spaces. The proposed parking and turning layouts comply with the Local Authorities current standards.
- 9.18 On the basis each 2/3-bedroom flat has the potential to generate 4 to 6 vehicle movements per day the new development will have the potential to generate 56 to 84 vehicle movements per day, which can be accommodated on the highway network.
- 9.19 Each flat is provided with a store to accommodate cycle storage and the proposed refuse store and collection arrangements is deemed acceptable.

- **Trees**

- 9.20 The proposal shows the loss of two low grade trees and a hedge, with the vast majority of trees are shown to be retained. The tree officer therefore has no objections, subject to conditions to include details of tree protective fencing to be installed prior to development works commencing and be retained in situ until completion. Furthermore a landscaping condition is recommended, as some replanting will be required along the frontage to help soften the increase in the built form. It is advised that trees should be native and relevant for the soil type, so as to blend in with the character of the area. Underground utilities will need to be directed outside root protection areas and the applicant will need to submit details via condition as it would not be acceptable for utilities to be taken out onto London Road through the main tree belt. (The relevant tree conditions relating to tree protection, landscaping and details of utilities are 10, 11 and 12 respectively.)

- **Ecology**

- 9.22 The site is surrounded by habitat of high suitability for use by protected wildlife – it is bordered by woodland to the south, east and west, with fields to the north and a pond within the application site boundary. The habitats on site consist of hardstanding, buildings, amenity and improved grassland, trees and woodland, hedgerow, scrub and a pond. These habitats are of good ecological value, some of which are used by roosting bats. To ensure that the surrounding

habitat, bats and other wildlife are safeguarded, conditions relating to biodiversity enhancement, the submission of a Construction Environmental Management Plan and bat licence are recommended (conditions 13, 14 and 15 respectively).

Impact on the Thames Basin Heaths SPA

9.23 The Thames Basin Heaths Special Protection Area (the SPA) was designated in 2005 to protect and manage the ecological structure and function of the area to sustain the nationally important breeding populations of three threatened bird species. The application site is located within two kilometres from the closest part of the Thames Basin Heaths Special Protection Area (SPA), which is protected by European and national legislation. This imposes requirements on the Local Planning Authority to protect this sensitive area of natural/semi-natural habitat. Although the Council has an adopted Suitable Alternative Natural Greenspace (SANG) known as Allen's Field, this only has a limited amount of remaining capacity. However this capacity has already been safeguarded for the delivery of submission allocated sites in the BLPSV. Unplanned development using up this capacity could result in sustainably located plan-led developments being put at risk of not being implemented in a timely manner or not at all. To avoid this arising, the Council (through a decision of Cabinet in June 2018) agreed that unplanned development of over 10 dwellings would not be able to rely on capacity at the Council's SANG at Allen's Field and would need to find alternative mitigation.

9.24 Correspondence has been entered into with the developers of a 3rd party SANG and with Bracknell Forest Council regarding the use of alternative SANG capacity to mitigate against the harm to the SPA. An appropriate assessment has been carried out and sent to Natural England in this regard. The Council's legal department has been consulted and a section 111 is being drafted to secure financial contributions to the provision of SANG within 5km of the application site which would ensure the integrity to the SPA is not harmed. Provided the legal agreement can be secured there are no objections to the proposal in this regard.

- **Development Brief**

9.25 Neighbourhood Plan policy NP/H1 requires proposals of 10 or more dwellings to submit a Development Brief and a Statement of Community Consultation. The statement of community consultation should demonstrate how the applicant has actively engaged with the Parish Council and the community as part of the design process.

9.26 Furthermore, paragraph 128 of the revised NPPF states '*...Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those cannot.*'

9.27 The Development brief submitted with the application is considered to be a comprehensive document which complies with the criteria outlined Appendix C of the Neighbourhood Plan. Furthermore, the submitted statement of community consultation is considered to comply with the criteria outline in Appendix D of the Neighbourhood Plan. As such it can be said that the policy requirement of NP/H1 have been complied with.

- **Affordable Housing**

9.28 The site area is above 0.5 ha and therefore there is a requirement in line with adopted policy H3 to provide 30% affordable housing. This policy is further explained in the Council's Affordable Housing Guidance Document. This is in line with the revised NPPF which advises that affordable housing provision will not be required for developments that are not major developments. A viability report has been submitted to demonstrate that it would be unviable for any affordable housing contribution to be made either on-site or off-site. The viability report has been reviewed by an external independent assessor who has confirmed that the proposal would not be viable with any affordable housing contribution.

- **Flood Risk**

9.30 The applicant has submitted an updated Flood Risk Assessment to support the application following initial comments from the Lead Local Flood Authority requesting further information. The updated document still requires further work as advised by the LLFA and therefore the recommendation to grant planning permission is subject to favourable comments in this regard.

- **Case for Very Special Circumstances**

Harm to the Green Belt and any other harm

9.31 The harm to the Green Belt as a result of inappropriateness combined with the significant harm to spatial and visual openness must be afforded **substantial** weight in accordance with paragraph 144 of the NPPF. No other harm has been identified as a result of the proposed development and it is considered to comply with the development plan in all other respects.

9.32 On the other side of the balance, the applicant has highlighted several considerations within the Planning Statement that need to be assessed to determine whether Very Special Circumstances exist to outweigh the harm identified above.

Fallback position

9.33 A key consideration in this case, is that permission exists for a replacement dwellinghouse of substantial proportions. The relevant application was permitted in 2011 (ref: 10/02973/FULL) on the basis that it would not be more harmful than the existing dwellinghouse as enlarged by various extensions which were lawful but not constructed at the time planning permission was granted. A certificate exists to prove that this sizable replacement dwellinghouse has been lawfully implemented (ref: 13/03571/CPD). The applicant makes the case that all pre-commencement conditions have been discharged and the certificate of lawful granted in January 2014 confirms that the development remains live and can be completed. Permission was also granted for extensions to the coach-house, ref: 16/02465, which have been implemented through material building operations. It is established in case law that for a Local Planning Authority not to consider a lawful fallback position would be an error in law. It cannot be denied (taking into account the certificate of lawfulness and building operations that have occurred on site) that there is a lawful fallback position and the fact that a lawful fallback position exists is therefore a material consideration. However, the weight applied to fallback positions is not only dependant on their lawfulness, but their likelihood as well.

Is the lawful fallback position likely such that it can be afforded significant weight?

9.34 The case law establishes that whilst a fallback position is a material consideration, the weight applied to it is a matter for the decision maker - the more likely the fallback position is of being implemented, the greater the weight that can be attached to it. It has been advised in the planning statement that if planning permission is not forthcoming for a redevelopment of the site with flats then the extant permission for the replacement dwelling would be built out. Whilst the site has been left vacant for a considerable period of time and previous permissions have been kept alive through minimal building operations, this does not necessarily mean that if planning permission were to be refused, the extant permission would not be built out. Indeed a certificate of lawfulness exists to state that permission for the replacement dwellinghouse has been implemented. Whilst there is no certificate to state that the permission for the extensions to the coach house has been implemented, the applicant has submitted a statement setting out that this planning permission has too been implemented through material building operations (in this case partial demolition of the coachouse).

9.35 In an attempt to demonstrate that the extant permission would be built out if the current application were refused and is therefore likely, three examples of case law are then put forward to support the case which explore the following issues, i) whether the existence of a valid planning permission should be a material consideration in determining whether to grant a second application, ii) whether the impact of an established fallback position can be given sufficient weight for it to amount to very special circumstances and iii) if there is a lawful fallback position

which is likely to be implemented, that there has to be a comparison made between the application proposal and said fallback position.

- 9.36 In this case, the application has been supported by a letter from an estate agents, Knight Frank, which confirms that the fallback scheme is realistic, would fetch a significant price and would result in a unique offering which would be very appealing to a foreign buyer as a UK base. Furthermore, that the location of the site offers good links to the nearby settlement of Sunninghill and good transport links to Heathrow and London meaning that it would be attractive to UK purchases as well. The letter concludes by saying the existing mansion development is both viable and very realistic. There is no evidence to dispute this judgement and therefore significant weight is given to the likelihood of the fallback position being implemented if the current planning application were to be refused.

Would the lawful fallback position result in a similar impact on the Green Belt than the proposed development?

- 9.37 On the basis of the above and in accordance with case law, a comparison must be made with the proposed development and the fallback position. Indeed this is standard procedure for Planning Authorities and Inspectors when presented with a development in the Green Belt – the question must be asked whether the proposal would result in a better situation on site than the fallback scheme.
- 9.38 The maximum development that can be built on the site under the lawful fallback position comprises both the replacement dwellinghouse (ref: 10/02973/FULL) coupled with the coach house as extended (ref: 16/02465/FULL). Firstly with regard to volume, there is a very marginal reduction in volume from 8,493m³ to 8,450m³ or 0.5% as a result of the proposed development, meaning that the overall amount of built development on site would be no greater than the lawful fallback scheme, in fact it would be very marginally smaller. This means that there would be no greater harm to the Green Belt in terms of the spatial impact on openness from the amount of buildings alone. However the impact on the openness of the Green Belt has a visual element and in some cases a lesser amount of development could actually be more harmful to the Green Belt as a result of its siting, position within the site, height and how visible it is to the wider surroundings. Other factors also contribute to the visual impact of a development such as the design of development, the materials to be used, the amount of hard-surfacing and activity associated with a development.
- 9.39 With regard to the visual impact of the built form, the removal of the coach house (as extended) along the front boundary of the site and the consolidation of built form into one building, could be said to result in an improvement to the site in terms of visual impact. The existing coach house being hard up on the front boundary is more visible in the street scene, despite its limited height, whereas in comparison a single apartment block of a slightly deeper footprint but lesser height than the replacement dwelling, which is set away from all boundaries of the would appear less visually prominent in the surroundings. As such, it could be argued that the consolidation of built form would result in a betterment in terms of the visual impact on openness.
- 9.40 In terms of hard-surfacing, the proposal seeks to create a central vehicular access with 6 visitor spaces at surface level and a single access road leading to a basement carpark area. There is therefore an overall reduction in hard-surfacing when compared to the consented scheme. It is also noted that the site plan shows the removal of both the swimming pool area and tennis court, again increasing the openness of this part of the site.
- 9.41 An important consideration that has been raised is the visual appearance of the rear elevation of the building, which would appear as a four-storey development as opposed to a three-storey development due to the two units within the lower ground floor level which have a rear facing aspect. Amended plans have been received during the course of the application to show that the sunken garden area immediately to the rear of the building to be reduced to a depth of approximately 4m and that landscaping would be incorporated around the garden area. These changes to the scheme mean that only if one were to stand within this sunken garden area would the full four-storey height of the development be appreciated and that from all other aspects within and surrounding the site, the building would appear as a three storey development.

- 9.42 With regard to activity and intensification, the significant increase in number of units has the potential to generate additional vehicular movements and activity within the site compared to a single dwellinghouse (although substantial in size) and the ancillary staff accommodation within the coach house. Having said that, the vehicular movements associated with the development would be confined to the short driveway and small surface parking area and the majority of cars and vehicular movements would be concealed from view in the basement area. Therefore the amount of vehicles visibly associated with the proposed development could be similar or less to those associated with the consented sizable replacement dwellinghouse and staff accommodation, where cars would be able to park and manoeuvre within the larger hard-surfaced area within the site frontage.
- 9.43 With regard to associated residential development and domestic paraphernalia, a flatted development would not attract permitted rights, whereas it is noted that only permitted development rights under Class A of part 1 of Schedule 2 (extensions and alterations to dwellinghouses) were removed from the replacement dwellinghouse meaning that outbuildings and other domestic paraphernalia could be placed in the grounds of the replacement dwellinghouse without prior consent from the Council.
- 9.44 Finally, in terms of the form and design of development and the impact on the character of the Green Belt, whilst the apartment building could be said to have a very grand and prominent appearance with the presence of a formal central turning area and basement ramp, it would be similar in form and appearance to consented replacement dwellinghouse such that it would not be more visually harmful to the Green Belt.
- 9.45 To conclude, when weighing up the forgoing it can be said that the proposed development would be less harmful than the fallback scheme in some respects such as the marginally smaller above ground volume, lower height, greater consolidation of built form and less hard-surfacing, but more harmful in other respects such as the visual impact of the rear elevation when viewed from the sunken garden area and grand and prominent appearance of the building. Taking into account all these factors and making a comparison of the two developments as a whole, it is considered that the proposed development would have a very similar impact on the openness of the Green Belt to the fallback scheme. Therefore, the fact that this fallback scheme could be constructed in the event of a refusal of planning permission must be afforded **substantial** weight in this Green Belt balancing exercise.

Housing

- 9.46 At the time of writing, the Council is unable to demonstrate a 5 year housing land supply. The applicant has put forward that the scheme would deliver an additional 13 units above the existing development or consented scheme. A High Court case is also quoted that confirms that the provision of housing in an area of housing shortfall is capable of amounting to very special circumstances. In this case however, the housing benefit arising from an additional 13 units is limited and therefore the weight afforded to this additional housing resulting from the proposal is also **limited**.

Previously developed land

- 9.47 Whilst the site is within the Green Belt it is also previously development land and Local Authorities are expected to promote an effective use of land in meeting the need from homes and other uses in planning decision (para 117 of the NPPF). If the harm to the Green Belt arising from the proposed development is similar whether one large mansion unit and ancillary outbuilding is built or 14 apartments is constructed, it is accepted that the current proposal would make a more effective use of this land. Again given the limited number of homes being provided, this consideration is afforded only **limited weight**.
- 9.48 The other considerations put forward by the applicant are that the site is in a sustainable location and outside flood zones 2 and 3. These do not add any additional benefit to the proposal and are therefore looked upon neutrally and afforded no additional weight in the case for Very Special Circumstances.

Conclusion on Very Special Circumstance

9.49 As highlighted above the weight attributed to the fallback position is **substantial**. Also on this side of the balance is the **limited** benefit to housing need and the **limited** weight afforded to the re-use of previously developed land. As such, when considering these matters cumulatively, the weight to be applied to would more than outweigh the substantial harm to the Green Belt such that Very Special Circumstances exist in this case to justify the harm to the Green Belt as a result of the proposal.

- **Other Material Considerations**

10. Housing Land Supply

10.1 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:

- *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*
- *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.*

10.2 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..).'

10.3 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).

10.4 As stated above, the Council is able to demonstrate approximately 4.5 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).

10.5 Notwithstanding the above, officers have concluded that the proposal complies with the relevant planning policies, which are considered in accordance with the NPPF. For clarification and regarding Footnote 6 of the NPPF (2019) whilst the development is within 5km of a **habitats sites and within land designated as Green Belt**, for the reasons set out in paragraphs 9.49 the applicant has demonstrated VSC such that the harm to the Green Belt has been justified and as set out in paragraphs 9.23-9.24 the harm to the integrity of the SPA would be mitigated. As such, there is no clear reason for refusing the proposed development on this basis and therefore in accordance with the presumption in favour of sustainable development the development proposal should be approved without delay.

11. **COMMUNITY INFRASTRUCTURE LEVY (CIL)**

11.1 The development is CIL liable. The proposed floorspace of the net increase in floor area is 2675m².

12. PLANNING BALANCE AND CONCLUSION

- 12.1 Paragraph 11 of the Framework explains how the presumption in favour of sustainable development applies. As set out in paragraph 10.5 it is considered whilst the proposed development falls within the Green Belt and within 5km of the SPA there is no clear reason for refusing the proposed development on this basis. The proposal complies with the development plan in all other respects.
- 12.2 In addition it is considered that there are further economic and social benefits afforded to the proposal arising from the net increase of 13 dwellings within the Borough.
- 12.3 As such, and for the reasons set out above, the proposed development is considered acceptable and planning permission is recommended subject to favourable comments from the LLFA regarding drainage and subject to the completion of the section 111 agreement to secure SPA mitigation.

13. APPENDICES TO THIS REPORT

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

14. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 The development hereby permitted shall be commenced within three years from the date of this permission.
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The materials to be used on the external surfaces of the development shall be in accordance with those specified in the application unless any different materials are first agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the area. Relevant Policies - Local Plan DG1.
- 3 No part of the development shall be occupied until the access has been constructed in accordance with the approved drawing. The access shall thereafter be retained as approved.
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5, DG1.
- 4 No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with the approved drawing. The space approved shall be kept available for parking and turning in association with the development.
Reason: To ensure that the development is provided with adequate parking facilities in order to reduce the likelihood of roadside parking which could be detrimental to the free flow of traffic and to highway safety, and to facilitate vehicles entering and leaving the highway in forward gear. Relevant Policies - Local Plan P4, DG1.
- 5 No part of the development shall be commenced until visibility splays of 2.4 metres by 43 metres have been provided. All dimensions are to be measured along the edge of the driveway and the back of footway from their point of intersection. The areas within these splays shall be kept free of all obstructions to visibility over a height of 0.6 metres above carriageway level. Reason: In the interests of highway safety. Relevant Policies - Local Plan T5.
- 6 No part of the development shall be occupied until the refuse bin storage area and recycling facilities have been provided in accordance with the approved drawing. These facilities shall be kept available for use in association with the development at all times.
Reason: To ensure that the development is provided with adequate facilities that allow it to be serviced in a manner which would not adversely affect the free flow of traffic and highway safety and to ensure the sustainability of the development. Relevant Policies - Local Plan T5, DG1.
- 7 The existing access to the site shall be stopped up and abandoned immediately prior to first occupation of the development hereby permitted. The footways and verge shall be reinstated before the development is first occupied in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety and of the amenities of the area. Relevant Policies -

Local Plan T5, DG1.

8 No part of the development shall be commenced until the details of the ramped access have been provided. The information will need to comply with the recommendations as set out in The Institution of Structural Engineers "Design recommendations for multi-storey and underground car parks". The details submitted will need to include a cross sectional and longitudinal plans of the ramp showing the level changes.

Reason: To ensure that adequate access to parking is provided. Relevant Policies - Local Plan T5, P4.

9 No part of the development hereby permitted shall be occupied until the access has been surfaced with a bonded material across the entire width of the access for a distance of at least five metres measured back from the highway boundary.

Reason: To avoid spillage of loose material onto the carriageway which could adversely affect conditions of highway safety. Relevant Policies - Local Plan T5.

10 The erection of fencing for the protection of any retained tree and any other protection specified shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. 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 written approval of the Local Planning Authority.

Reason: To protect trees which contribute to the visual amenities of the site and surrounding area. Relevant Policies - Local Plan DG1, N6.

11 The development shall not be occupied until the hard and soft landscaping scheme has been implemented within the first planting season following the substantial completion of the development in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The development shall be retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.

Reason: To ensure a form of development that maintains, and contributes positively to, the character and appearance of the area. Relevant Policies - Local Plan DG1.

12 Prior to the commencement of development details of the underground utilities/services shall be submitted to and approved in writing by the Local Planning Authority and the works shall be undertaken in accordance with the approved details.

Reason: To ensure that retained landscaping on the site is not damaged or destroyed during construction, a matter that is fundamental to the development and must be satisfied prior to commencement. Relevant Policies - Local Plan DG1, N6.

13 No works hereby permitted shall commence until a licence for development works affecting bats has been obtained from the Statutory Nature Conservation Organisation (Natural England) and a copy has been submitted to the council. Thereafter mitigations measures approved in the licence shall be maintained in accordance with the approved details. Should conditions at the site for bats change and/or the applicant conclude that a licence for development works affecting bats is not required, the applicant is to submit a report to the council detailing the reasons for this assessment and this report is to be approved in writing by the council prior to commencement of works.

Reason: The site hosts a bat roost which will be affected by the proposals. This condition will ensure that bats, a material consideration, are not adversely impacted upon by the proposed development.

14 No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

a) Risk assessment of potentially damaging construction activities.

b) Identification of "biodiversity protection zones".

c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including precautionary measures for nesting birds and an invasive-species method statement.

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that wildlife is not adversely affected by the development.

15 No dwelling hereby permitted shall be occupied until the locations and specifications of biodiversity enhancements - to include bird and bat boxes and native and wildlife-friendly landscaping - has been submitted to and approved in writing by the council.

Reason: To incorporate biodiversity in and around the development in accordance with paragraph 175 of the NPPF.

16 Within one month of the substantial completion of the development the building shown to be removed on the approved plans, shall be demolished in its entirety and all materials resulting from such demolition works shall be removed from the site.

Reason: To prevent the undesirable consolidation of development on the site having regard to its Green Belt location. Relevant Policies - Local Plan GB1, GB2,

17 No development shall commence, excluding demolition, until details of all finished slab levels in relation to ground level (against OD Newlyn) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.

Reason: In the interest of the visual amenities of the area. Relevant Policy Local Plan DG1.

18 The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

Informatives

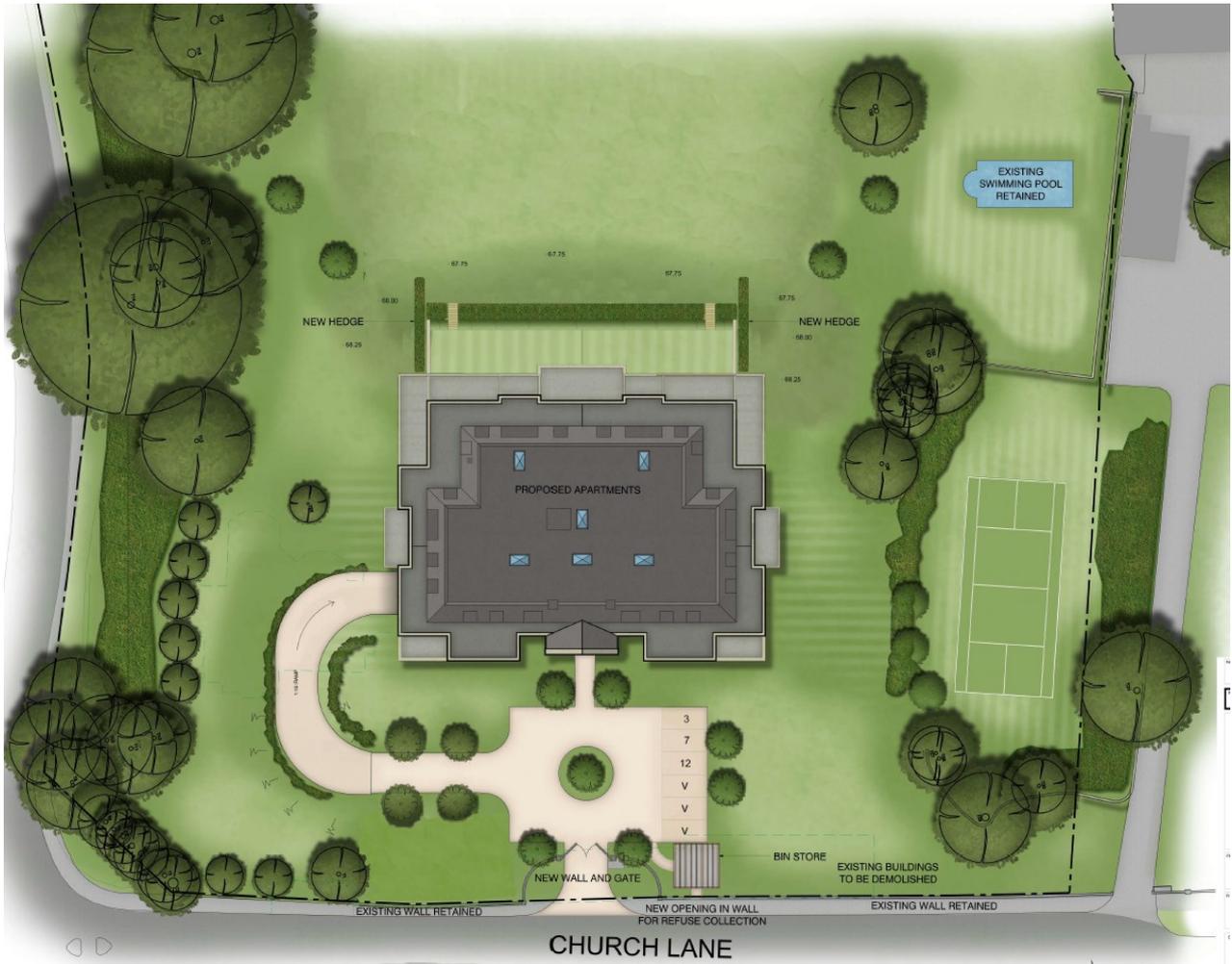
- 1 The Streetcare Services Manager at Tinkers Lane Depot Tinkers Lane Windsor SL4 4LR tel: 01628 796801 should be contacted for the approval of the access construction details and to grant a licence before any work is carried out within the highway. A formal application should be made allowing at least 4 weeks notice to obtain details of underground services on the applicant's behalf.
- 2 The attention of the applicant is drawn to the Berkshire Act 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway or grass verge arising during building operations.
- 3 The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which enables the Highway Authority to recover expenses due to extraordinary traffic.
- 4 Any incidental works affecting the adjoining highway shall be approved by, and a licence obtained from the The Streetcare Services Manager at Tinkers Lane Depot Tinkers Lane Windsor SL4 4LR tel: 01628 796801 at least 4 weeks before any development is due to commence.
- 5 No builders materials, plant or vehicles related to the implementation of the development should be parked/stored on the public highway so as to cause an obstruction at any time.

Appendix A

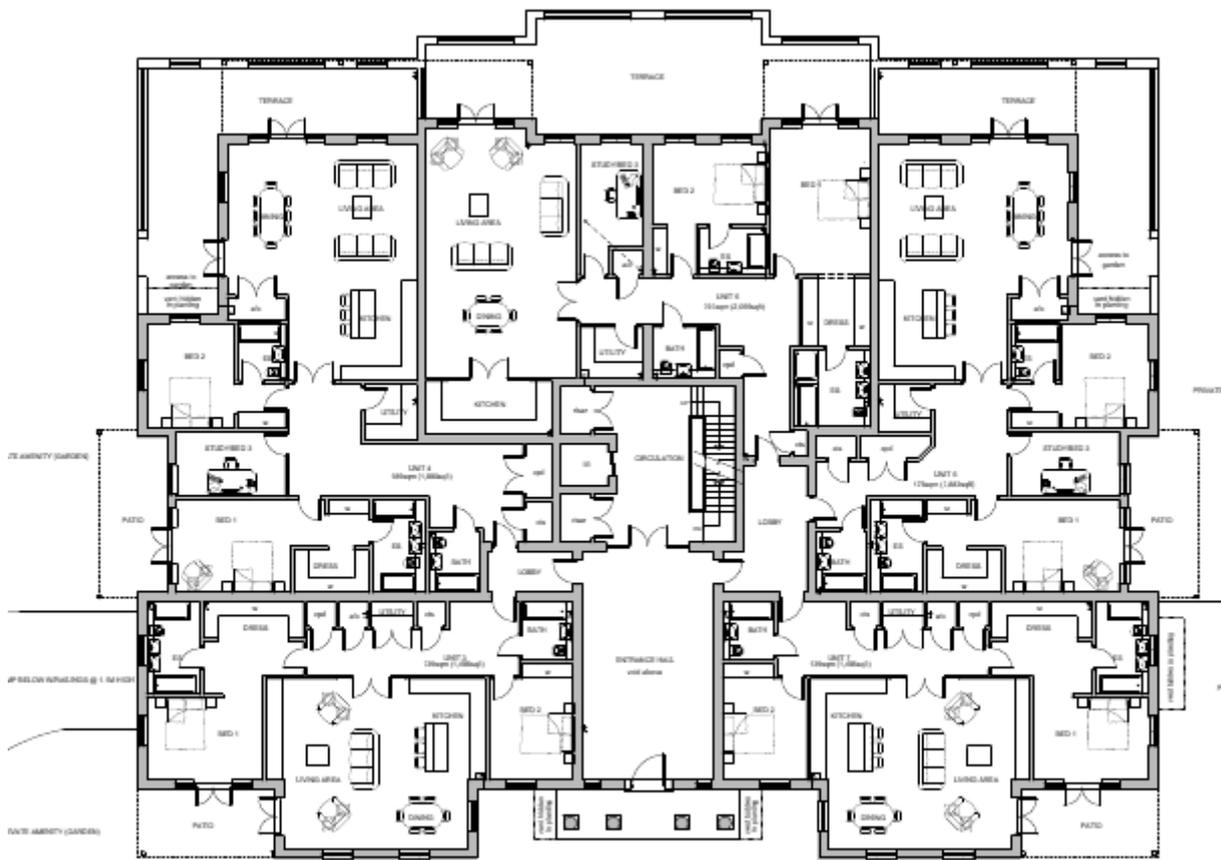
Location Plan



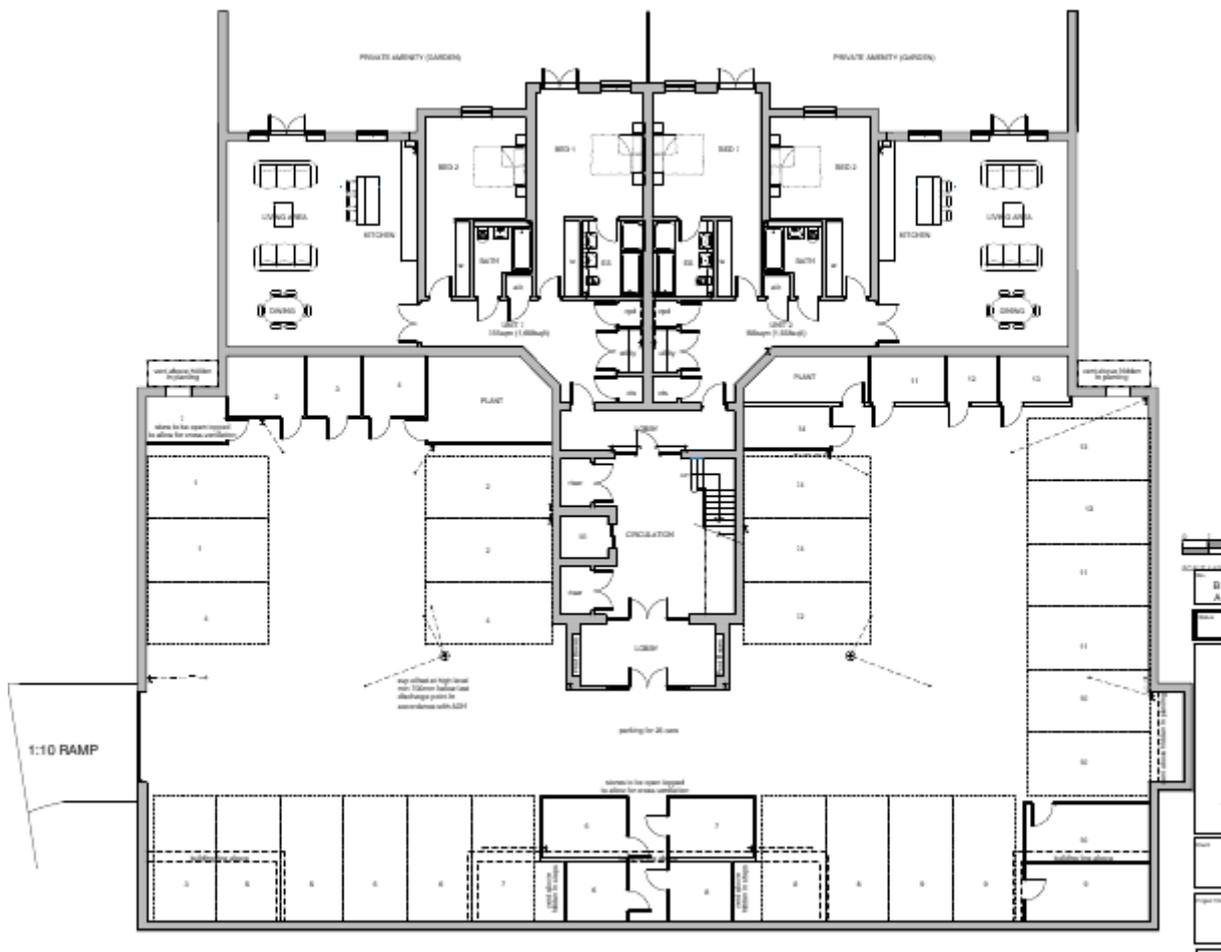
Proposed site plan



Floor Plans



PROPOSED GROUND FLOOR PLAN



Proposed Lower Ground floor plan

Elevations



FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION (parkland view)



SCALE: 1/100

Date: 13/08, 18/07

Rev: B A

Sheet: PL

ASC
Time!

Ascot Design Ltd. Reg.
No. 0176344 29923

Client: MI

Project No: BEECHG
SUN1

DRAWING TITLE: PROPOS



SIDE ELEVATION