

DEVELOPMENT CONTROL PANEL

4 December 2019

Item: 7

Application No.:	19/01714/FULL
Location:	Site of Former 61 To 63 Dedworth Road Windsor SL4 5AZ
Proposal:	Mixed use development with retail unit at ground floor and 13 x apartments above, with access, car parking, servicing and landscaping following demolition of existing buildings (Part Retrospective).
Applicant:	Patrick Ruddy Homes
Agent:	Mr David Lomas
Parish/Ward:	Windsor Unparished/Clewer East

If you have a question about this report, please contact: Haydon Richardson on 01628 796697 or at haydon.richardson@rbwm.gov.uk

1. SUMMARY

- 1.1 Planning permission for almost identical schemes has been granted in 2016 (15/04147/FULL) and 2013 (13/00090/FULL). The only difference between those schemes and the proposal is that several non-protected trees have been removed from the rear of the site.
- 1.2 The site is currently cleared and boarded off, following the demolition of a two storey building on the site. The former building comprised retail usage at ground floor with 3 residential units above. To the rear of the building was a car park and beyond that a store building.
- 1.3 The proposal seeks to provide a mixed use, 4 storey building, of contemporary design comprising 420sqm of retail space at ground floor and 13 flats above. The rear of the building would provide parking with 16 spaces for the proposed flats and a further 19 spaces for the retail unit, 4 of which are proposed to be disabled bays. To the front of the building 6 parking bays are proposed, where the existing parking lay-by is currently present. The access to the site would be repositioned to the eastern side of the site and would run parallel to the eastern side boundary to provide access to the rear parking area. The existing access to the substation on the west of the building would remain. The proposed building would add to the existing mixed street scene, where the character is buildings of varied height, design and material finishes. A protected tree would be replanted and landscaping surrounding the site would be appropriately retained and provided where necessary.
- 1.4 There has been no material change to the Development Plan since the previous decision and it is not considered that the revisions to the NPPF (2019) raises any further issues which were not addressed under the last application. Whilst the existing building on site has now been demolished it is not considered that conditions on site have been changed to the affect that further issues are raised. The site remains in an accessible and sustainable location where, subject to conditions, it is not considered would cause significant harm to vehicle movements or the highways network. The proposal would also have an acceptable impact on the amenity of neighbouring properties, whilst providing a good living environment for its future occupiers. It would preserve protected trees and provide an enhanced retail unit. For the reasons mentioned above the proposal is considered to be in compliance with Local Plan Policies DG1, H10, H11, N6, T5, P4, as well as all relevant planning guidance contained within the NPPF (2019).

It is recommended the Panel grants planning permission with the conditions listed in Section 13 of this report.

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 The site is currently cleared following the demolition of a two storey yellow brick building dating from 1960/70's. That (former) building comprised of retail use on the ground floor and had 3 flats at first floor. To the rear of the building was car park and beyond that a store building. The site is rectangular in shape having a frontage width of 28m, and a depth of between 190- 210m. The rear boundary abuts the side boundary of 22 St Johns Drive.
- 3.2 The development site is located in a small shopping parade on Dedworth Road. Nearby are other commercial uses as well as residential properties and opposite the site an area of public open space

4. KEY CONSTRAINTS

- 4.1 A tree afforded protection under a Tree Preservation Order is located at the front of the site. The Tree is a recent replacement of an older protected tree which was removed by the council.

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The application seeks planning permission for a mixed use development comprising a retail unit at ground floor and 13 x apartments above, with access, car parking, servicing and landscaping following the demolition of existing buildings.
- 5.2 The development is part retrospective as demolition works have already taken place at the site.
- 5.3 This proposal is effectively identical to those approved under (now expired) planning permissions 15/04147/FULL and 13/00090/FULL on this site.

Reference	Description	Decision
99/77837	Erection of a two storey block of 8 x 2 bedroom flats following demolition of warehouse with associated works.	Refused – 12.05.1999
11/03438/OUT	Outline application with some matters reserved for redevelopment to provide a ground floor retail unit and 14 apartments together with access works, parking and landscaping following demolition of existing site	Withdrawn - 06.03.2012
12/90348/PREAPP	Pre-application for Ground floor retail and 12 flats on first, second and third floors.	Positive feedback dependent upon final plans.
13/00090/FULL	Mixed use development comprising ground floor retail unit with 13 apartments above, together with associated access works, parking, servicing and landscaping following demolition of existing building.	Approved: 08.04.2013
15/04147/FULL	Mixed use development with retail unit at ground floor and 13 x apartments above, with access, car	Approved: 04.03.2016

	parking, servicing and landscaping following demolition of existing buildings	
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6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

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

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10,H11
Highways	P4 AND T5
Trees	N6

These policies can be found at

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

7. MATERIAL PLANNING CONSIDERATIONS

National Planning Policy Framework Sections (NPPF) (2019)

- Section 4 - Decision-making
- Section 9 - Promoting Sustainable Transport
- Section 12- Achieving well-designed places

Borough Local Plan: Submission Version

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

Borough Local Plan: Submission Version Proposed Changes (2019)

Issue	Local Plan Policy
Design in keeping with character and appearance of area	QP1,QP3
Sustainable Transport	IF2
Housing mix and type	HO2
Affordable housing	HO3
Flood risk	NR1
Pollution (Noise, Air and Light)	EP1, EP2, EP3, EP4

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 was submitted to the Secretary of State for independent examination in January 2018. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough.

7.2 In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV which are now out to public consultation until Sunday, 15 December 2019. All representations received will be reviewed by the Council to establish whether further changes are necessary before the Proposed Changes are submitted to the Inspector. In due course the Inspector will resume the Examination of the BLPSV. The BLPSV and the BLPSV together with the Proposed Changes are therefore material considerations for decision-making. However, given the above both should be given limited weight.

7.3 These documents can be found at:
<https://www3.rbwm.gov.uk/blp>

Other Local Strategies or Publications

7.4 Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy

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

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

- 8.1 57 nearby occupiers were notified directly of the application.
- 8.2 The planning officer posted a notice advertising the application at the site on 02.07.19 and the application was advertised in the local newspaper on 04.07.2019.
- 8.3 9 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	The proposed development would be out of keeping with the height and design of other buildings in the area	See paragraphs 9.4 to 9.18 of the report
2.	The development would cause a severe loss of privacy and overlooking to the rear gardens of properties on Carter Close and St Andrews Avenue.	See paragraphs 9.34 - 9.45
3.	The proposal would be overbearing to properties on Carter Close.	Due to the distance between the building and those properties, as well as the buildings position (close to the road and not there rear of those properties). Those proposal is not considered to be overbearing. Also see paragraphs 9.34 - 9.45

4.	Insufficient parking would be provided for the resulting development and this would put parking pressures on an area which already has limited parking facilities.	See paragraphs 9.19-9.33
5.	The tree protection plan, transport statement, retail assessment and sustainable drainage information is out of date.	The tree protection plan, retail assessment, suds information and transport statement have all been updated. It is also worth noting that a retail assessment is not necessary for a proposal of this size.
6.	The proposal would be cramped and represents over development of the site.	See paragraphs 9.4 to 9.18 of the report
7.	The access road is too narrow and would not allow for vehicles to pass by each other	See paragraphs 9.20-9.32
8.	No ecological impact assessment has been submitted with the proposed development.	No ecological impact assessment is necessary for a development of this nature.
9.	Insufficient consultation has taken place with residents of the area	The statutory consultation requirements have been carried out. See paragraphs 8.1 and 8.2 of the report.
10.	The proposal would have an adverse impact on air quality in the area	The environmental protection officer has raised no concerns regarding the impact of the development on air quality, furthermore there are no material considerations which would warrant refusal of the application due to its impact on air quality.

11.	An application for a similar development was refused in 1999. This application was not included in the planning history for permitted applications 15/04147/FULL and 13/00090/FULL as such residents and councillors were unable to take that application into decision when making their recommendations.	Noted. However it should also be noted that the 1999 application is completely different from this application. Furthermore since the 1999 application other developments identical to this development have been approved (13/00090/FULL and 15/04147/FULL) and are therefore more relevant.
12.	The proposed development is for profit and in no way benefits the community.	Noted. However this is not a material consideration. The improved retail facility could also potential be of benefit to the local community.
13.	Flats are not needed in this area and other type of property should be proposed on the site.	The council seeks a wide range of housing types as set out in the Local Plan and emerging Borough Plan.
14.	The demolition of the building would lead to asbestos exposure.	This is a building control matter and not a material planning consideration.

Statutory consultees

Consultee	Comment	Where in the report this is considered
Lead Local Flood Authority	No objection subject to a condition requiring the details of the proposed surface water drainage system and maintenance measures to be submitted prior to commencement. The proposal would have an acceptable impact on drainage within the area.	The relevant conditions have been recommended for inclusion in this recommendation.
Environmental Agency	This planning application is for development that we do not wish to be consulted on.	Noted.

Consultees

Consultee	Comment	Where in the report this is considered
Highways Officer	No objection subject to the inclusion of conditions placed on the previously approved application No.15/04147/FULL.	Conditions relating to delivery hours, parking provision, visibility splays, cycle storage,

		refuse facilities and access have been recommended to ensure the development has an acceptable impact on the highways network, resident safety and residential amenities.
Tree Officer	No objection subject to conditions requiring landscaping details, details of how the TPO tree will be replanted and compliance with the updated tree protection plan. (Plan No. 11120-D_2013-02-22.dwg, Barrel Plan Ref: 19233-BT1, received 17/10/19).	The mentioned conditions have been recommended for inclusion if this application is granted.
Environmental Protection Officer	No objection subject to conditions and informatives.	Those relevant have been recommended for inclusion if this application is granted.

Others

Group	Comment	Where in the report this is considered
Windsor and Eton Society	<p>The application provides a poor standard of amenities for the occupants of the proposed flats as a result of overdevelopment, which is demonstrated by:</p> <ul style="list-style-type: none"> • Flats 4, 5, 10, 12 and 13 have no balcony and therefore no outside space. • Facing bedroom windows are only about 7m apart between flats 2 and 5 and flats 8 and 10 giving little privacy for occupants • - The bedroom of flat 5 opens onto the first floor courtyard with no natural daylight. • The bedroom of flat 2 has only limited natural daylight from a void in the floor above. • The bedrooms to flats 5, 6, 10 and 11 open into the internal courtyard with no protected space outside meaning people can look directly into the bedrooms unless curtains are kept closed. • The bedroom of flat 2 can be viewed through the void from above • Flat 5 does not meet the minimum space standard for a 1 bed 2 person unit. 	<p>The proposed development has been approved several times, as such it would be unreasonable to refuse the application due to the resulting amenity standards of the proposed flats.</p> <p>Furthermore each flat would be of an adequate size, would have windows with access to light (some would have balconies). The flats are in close proximity to outdoor spaces, shops and services. It is therefore considered that the occupiers would have a satisfactory level of amenity.</p> <p>Also see paragraphs 9.34 – 9.45 of the report.</p>

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

i The principle of the development

- ii The impact upon the character and appearance of the area (including protected trees)
- iii The impact upon highway safety and parking
- iv The impact upon the amenities of nearby occupiers
- v Provision of a suitable residential environment
- vi Environmental considerations
- vii Other Considerations

Issue i - Principle of development

- 9.2 The application seeks planning permission for a mixed use development comprising a retail unit at ground floor (420sqm) and 13 x apartments above, with access, car parking, servicing and landscaping following the demolition of existing buildings (part retrospective). The proposed development is effectively the resubmission of a development which was granted planning permission 15/04147/FULL. There has been no change in the Development Plan since this previous approval. The NPPF (2019) has been amended since the previous decision and where relevant this is considered further below. In terms of the principle considerations the NPPF (2019) emphasise efficient use of previously developed land in sustainable locations.
- 9.3 The site is located in the urban area, in close proximity to a local parade of shops. For these reasons the principle of the mixed use redevelopment of this site remains appropriate.

Issue ii - Impact upon the character and appearance of the area (including protected trees)

- 9.4 Chapter 12 of the National Planning Policy Framework (2019) aims to achieve well designed places. Paragraph 127 specifically advises that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate landscaping, they should also be sympathetic to local character, history and the surrounding built environment.
- 9.5 In support of the above the Government published the National Design Guide in October 2019 and seeks to illustrate how well-designed places that are beautiful, enduring and successful can be achieved in practice. The focus of the design guide is as a tool to inform layout, form, scale, appearance, landscape, materials and detailing.
- 9.6 Local Plan Policy DG1 places similar emphasis on achieving good design and creating new developments which sympathetically integrate into existing environments. Policy H10 of the adopted Local Plan states that new residential development schemes will be required to display high standards of design and landscaping in order to create attractive, safe and diverse residential areas and, where possible, to enhance the existing environment.
- 9.7 Policy H11 of the adopted Local Plan states that in established residential areas, planning permission will not be granted for schemes which introduce a scale or density of new development which would be incompatible with or cause damage to the character and amenity of the area.
- 9.8 Policy N6 states that new developments should protect and conserve trees important to the amenity of the area; ample space should also be provided for the future growth of these trees. Any loss or harm to such trees can in some circumstances be mitigated by replanting but should always be justified by the applicant. The policy also states that where the contribution of the trees to local amenity outweighs the justification for development, planning permission maybe refused.

- 9.9 Dedworth Road comprises a mixture of commercial and residential buildings of various styles, designs and ages, although the predominance of buildings are two storeys in height, with the exception of Terrent Court, directly opposite the site which is a three storey building.
- 9.10 The proposed layout would reflect the existing established building line along the area, with the position of the proposed building re-enforcing the established building line, and parking to the rear. The building is four storeys in height, with the fourth floor provided within the roof space of the eastern side of the building. The proposed roof form with the broken gable roof from would appear contemporary in nature and whilst not fully aligned with the existing character of the area is considered to be an appropriate response to a varied and changing area. Whilst greater in height than the adjoining buildings, the increased height of the building is considered to be suitably mitigated through varying roof form. The height and built form of proposed building therefore takes into consideration and reflects the varied character of area whilst also making efficient use of previously developed land. Other buildings within the area vary in size, material finish and design. It is therefore considered that the modern finish of the building would not be out of character in this area, where the appearance of buildings vary, this is subject to suitable conditions regarding the material finish of the proposed development. Car park lighting could add to the developments appearance, minimise crime in the area, but could also cause nuisance to neighbours. A condition has been recommended to ensure details of such lighting is submitted before installed (Condition 11). A condition has also been recommended to ensure the trolley park is designed in a way which would compliments the area and site (Condition 12).
- 9.11 To the front of the site, abutting Dedworth Road is a protected tree. Due to its size and siting the trees makes a valuable contribution to the character and appearance of the area. The proposed development seeks to replant the tree, slightly south east of its existing position. Subject to the tree being safely uplifted and replanted this would be acceptable. A condition has been recommended to this effect (Condition 13).
- 9.12 New landscaping will also be introduced as part of the scheme. The works include resurfacing of the site and the planting of several trees at the front of the site, as well as within its rear car park. The new trees are welcome as they would add to the areas appearance and soften the new developments introduction to the street. Similar to the previously approved scheme, full details of the proposed boundary treatments, hard landscaping and soft landscaping have not been submitted with this application. A condition has therefore been recommended to ensure these details are appropriate and submitted prior to any construction works at the site (Condition 13).
- 9.13 During the process of the application the submitted tree protection and planting plan has been updated (Plan No. 11120-D_2013-02-22.dwg, Barrel Plan Ref: 19233-BT1, received 17/10/19). The new plan takes into consideration that several small trees were removed when the pre-existing building was demolished. These trees were not protected, are not necessary to make the development have an acceptable impact on neighbouring amenities and do not add any significant value to the character and appearance of the area due to their size and set back from the road. Their removal is considered acceptable.
- 9.14 Condition 16 has been recommended to ensure that the tree protection measures outlined in Plan No. 11120-D_2013-02-22.dwg, Barrel Plan Ref: 19233-BT1, received 17/10/19 are carried out.
- 9.15 The Boroughs Tree Officer has no objection to the proposed development, subject to the mentioned conditions.
- 9.16 It should also be noted that in 2013 and 2016 planning permission was granted for similar developments (15/04147/FULL and 13/00090/FULL).

- 9.17 There are no discernible changes between this development and those previously approved (other than the removal of the mentioned trees), nor has there been any significant changes in the built environment surrounding the site, which would now result in the proposal being out of character.
- 9.18 For these reasons and subject to recommended conditions, the proposed development is considered to have an acceptable impact on the character and appearance of the area, protected trees and to be in compliance with all relevant design guidance.

Issue iii - Impact upon highway safety and parking

- 9.19 A similar development was granted at the site in 2016 (15/04147/FULL) and no objections were made on highway safety or parking grounds. The relevant standards have not changed since this previous decision.
- 9.20 Policy T5 requires all development proposals to comply with adopted highway design standards (HDS). The policy notes advise that the purpose of the HDS is to ensure that new development does not place an undue burden or create problems of congestion on the highway network. Policy P4 requires all development proposals to accord with adopted car parking standards, while policy T7 seeks to ensure that new development makes appropriate provision for cyclists including cycle parking.
- 9.21 The NPPF (2019) states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.
- 9.22 The sites main access to would be sited east of the building. The access would be 5m wide and would provide visibility splays of 2.4 metres by 36 metres to the right (east), and 2.4m by 43m to the left (west). As with the previous permission these splays are considered to be adequate and condition 15 has been recommended to ensure they are installed. The existing electricity substation access (west of the building) will be retained. The access will provide gated entry to the sites retail bin area and store.
- 9.23 The former site comprised of a A1 retail store (DIY and timber workshop), 3 x 2 bed flats and had 13 car parking spaces and a triple garage. The residential units were not allocated a parking space.
- 9.24 The development comprises a 420sqm A1 units, 7 x 1 beds and 6 x 2 bedrooms. The Council's Parking Strategy (2004) sets out the Council's recommended parking provision for new developments for a scheme of this nature 30 spaces would be required for the retail use and a further 16 spaces for the residential, 46 spaces in total.
- 9.25 The development provides a total of 35 car parking spaces, as well as turning facility for service vehicle. A further 6 spaces are shown at the front of the site are outside of the applicant's control and therefore, cannot be included in the sites parking provision. The 13 residential units are provided with 16 spaces and these are located in a secure gated area at the rear of the property, the remaining 19 spaces would provide parking for the needs of the retail unit.
- 9.26 Based upon the Council's (and arguably out of date) *maximum* Parking Standard the proposal would lead to a shortfall of 11 car parking spaces for the retail use. However, the site is considered to be within a sustainable and reasonably accessible location and like many of the retail and businesses in the area, shoppers are able to park in the spaces provided at the front shops. Moreover the provision of 19 car parking space for the retail use are greater than the parking provision for any of the other local shops. In view of this and as this level of parking was previously considered appropriate under the same policy context the level of car parking is

considered to remain acceptable for a development in this location. Condition 7 has been recommended to ensure the proposed parking spaces are made and retained.

- 9.27 The Transport Statement (Ref: 21720, dated September 2019) submitted in support of this application suggests that vehicular trip numbers are likely to be similar to those previously granted at the site (15/04147/FULL) and that the increase would still cause no significant harm to vehicle movements in the area. It is considered that the conclusions that the development would not have a significant impact on the capacity of wider highway network remain relevant.
- 9.28 The Highway Authority have equally raised no objections to this application, subject to conditions. It is also considered that when taking into consideration the sites sustainable location as well as the fact that an identical scheme has been granted at the site; it would be unreasonable to refuse the development on parking grounds.
- 9.29 The proposed plans show areas for refuse facilities (for both retail and residential elements of the scheme), whilst these areas seem large enough to accommodate these uses, further details are needed regarding the type of bins and whether they would be sheltered or not as this will ultimately impact on their usage and the sites appearance. Condition 10 has been recommended to this effect.
- 9.30 The plans also shows that the development would include areas for cycle storage. The areas provided would cater for new residents, employees and future shop users. It is considered that adequate space exists on site for the safe and secure storage of cycle facilities. However further information is required, as to where bikes will be stored (preferably at the front of the site for retail users), how they will be stored (sheltered or open), and how they will be accessed. It is therefore considered that notwithstanding the submitted plans, details of where safe and secure cycle storage will be provided to the LPA prior to the operation of the retail unit and occupation of the residential units. A condition has been recommended to this effect. Safe and secure cycle storage will encourage their use and aid in promoting sustainable transportation.
- 9.31 The applicants have also suggested that they are willing to submit a travel plan to aid and encourage sustainable means of transportation to and from the site (transport statement addendum - Ref: 21720, dated September 2019). No travel plan was submitted with the previous application, nor have there been any changes in material considerations which would require a travel plan to be submitted. For these reasons the submission of a travel plan is not considered necessary.
- 9.32 The Highway Authority raises no objection to the proposed development subject to the inclusion of the conditions/informatives placed on the previous permission (15/04147/FULL). Those conditions have been recommended for inclusion, if permission is granted. However in terms of the recommended condition regarding a construction method statement , the site is located on a classified road and any potential impact the construction of this development could have on the highway network is a highways issue and not in the remit of planning. It is therefore not considered necessary nor reasonable for such a condition to be attached to a redevelopment of a site of this size. The same is applications for the installation of the proposed access which would be required prior to the occupation of the development.
- 9.33 Overall and for the reasons mentioned above, the proposed development is not considered to have an unacceptable impact on highway safety or to cause severe harm to the highways network.

Issue iv- Impact on neighbouring amenity

- 9.34 Paragraph 127 of the NPPF states that development should 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.

- 9.35 There are no Development Plan policies regarding impact on neighbouring amenity.
- 9.36 Whilst the objections from local residents are noted no material objections were raised on amenity grounds for the redevelopment of this site under planning application 15/04147/FULL. It was considered that the separation distances to boundaries/ relationship with adjacent properties were sufficient to maintain a suitable level of amenity for the occupants of adjoining properties, subject to conditions. Similar conditions have been recommended for inclusion in this application and taking into consideration that there has been no material shift in planning policy relating to neighbouring amenity, this position remains the same.
- 9.37 Notwithstanding these above, paragraph 180 of the NPPF (2019) states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes avoiding noise giving rise to significant adverse impacts on health and the quality of life.
- 9.38 The new access road would run along the sites eastern boundary, close to Winton House a residential care home. Due to its separation distance from that property the likely vehicle movements associated with the proposed use in this urban location, adjacent to a fairly busy main road, it is not considered to result in significant increase of activity and disturbance that would result in an unacceptable impact with the occupiers of Winton House.
- 9.39 Intense and unrestricted use of the retail unit and its car park could be harmful to the amenities of properties on Carter Close and St Andrews Avenue. Conditions have therefore been recommended to limit delivery hours to sociable times and to restrict opening hours to align with other shops in the area (Conditions 3 and 6).
- 9.40 It should also be noted that several trees have been removed from the rear boundary of 1 St Andrews Avenue. Taking into consideration the separation distance between the site and that property and the fact that those trees are unprotected the replanting of the trees is not considered necessary to ensure the amenities of that neighbour are preserved.
- 9.41 Overall and similar to the previously approved scheme the proposal is considered to be in line with all relevant planning considerations and to have an acceptable impact on the amenities of nearby properties. Under planning application 15/04147/FULL conditions required a proposed “screen” towards the properties along Carter Close. The previous Officer Report considered the relationship was appropriate with these properties but however considered this relationship could be ‘improved.’ It is unclear if and how such a screen could be provided, and in any case such condition are neither necessary nor reasonable.

Issue V - Provision of a suitable residential environment

- 9.42 There are no specific policies in the adopted Local Plan regarding provision of a suitable residential environment. Paragraph 127 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The government has also published Technical Housing Standards- nationally prescribed space standards (2015) which sets out guidance on floor space requirements for new developments.
- 9.43 All of the proposed units are of a sufficient internal floor space to accord with the Nationally Described Space Standards (2015).
- 9.44 Furthermore, new residential development should provide an appropriate level of lighting, outlook and amenity to all habitable rooms and be of a suitable space standard. The proposed flats have been designed so that they are dual aspects, with some rooms in each unit having an outlook into

an internal courtyard, served by an atrium. Some of the proposed flats are proposed to have balconies. The building is in close proximity to outdoor spaces, shops and services.

- 9.45 On this basis it is considered that the occupiers would have a satisfactory level of amenity.

Issue VI - Environmental considerations

- 9.46 Paragraph 165 of NPPF states that all 'major' planning applications must incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. SuDS must be properly designed to ensure that the maintenance and operation costs are proportionate and sustainable for the lifetime of the development. In accordance with The Flood and Water Management Act 2010 the Royal Borough in its role as Lead Local Flood Authority (LLFA), is a statutory consultee for all major applications.
- 9.47 The Lead Local Flood Authority have been consulted on the application and have suggested that subject to a condition requiring the details of the proposed surface water drainage system and maintenance measures to be submitted prior to commencement. The proposal would have an acceptable impact on drainage within the area. Condition 14 has been recommended to ensure such details are submitted.
- 9.48 Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment. The emphasis is on minimising impacts on and providing net gains for biodiversity. The site has been cleared and appears to be of limited biodiversity value. Proposed biodiversity enhancements can be secured by way of condition (see condition 17).

Issue VII- Other Considerations

- 9.49 When compared with the previously approved application (15/04147/FULL) conditions requiring obscure glazed bathroom windows, slab levels, sustainability measures, construction management plans, car park operation, amenity screens and ageing population adaptability measures have been removed from this recommendation. This is because many of the matters do not fall within the remits of planning, have been superseded by new guidance (including building regulations) or simply would not meet the tests for imposing conditions on planning applications.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 10.1 The development is CIL liable.
- 10.2 Taking into consideration that no residential or retail space currently exists at the site, the proposed residential floor space increase would be 489 sqm. Equating to a CIL charge of approximately £117,360. The exact amount payable will be determined by the Boroughs CIL officer prior to the commencement of the development.

11. Housing Land Supply, Planning Balance and Conclusion

- 11.1 Paragraphs 10 and 11 of the NPPF (2019) 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.*

11.2 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..).'

11.3 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 (5 yhls) is the 'standard method' as set out in the NPPF (2019). Currently the LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer). The LPA therefore accepts, for the purpose of this application and in the context of paragraph 11 of the NPPF (2019), including footnote 7, the so-called 'tilted balance' is engaged.

11.4 The proposed development would make efficient use of previously developed land in a sustainable location and provide 13 new residential units. Significant weight is given to this as a benefit of this scheme. It would also constitute 'windfall development' in which the NPPF (2019) states great weight should be given to the benefits of using suitable sites for such development. This too weighs in favour of the scheme. No harm has been identified which would significantly and demonstrably outweigh the benefits of the scheme. As such the tilted balance weighs in favour of the development.

11.5 In addition to the above, it is considered that subject to conditions, the proposed development would have an acceptable impact on the character and appearance of the area, local highways network, neighbouring amenity and protected trees, in line with Local Plan Policies DG1, H10, H11, N6, T5, P4, as well as the aforementioned planning guidance contained within the NPPF (2019).

11.6 It is therefore considered that irrespective of the tilted balance being engaged; when this application is determined in accordance with normal tests (under section 38(6) of the 2004 Act), the proposal would be in general conformity with the Development Plan and there are no material considerations of sufficient weight to justify refusal.

11.7 For the reasons mentioned above, the application is recommended for approval.

12. APPENDICES TO THIS REPORT

- Appendix A - Site Location Plan
- Appendix B - Site Layout Plan
- Appendix C - Floor Plan
- Appendix D - Elevation Plan

13. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED (delete as appropriate)

- 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 Prior to any construction works at the site, samples and/or a material schedule of the materials to

be used on the external surfaces of the development and all external hardsurfaces shall be 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 interests of the visual amenities of the area. Relevant Policy DG1

3 The retail shop on the ground floor hereby permitted shall only operate between the hours of 7am and 10 pm on Mondays to Saturdays and 10am to 5pm on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of adjoining occupiers. Relevant Policies - Local Plan NAP3.

4 Irrespective of the provisions of Classes A, B, C and E of part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or any other alteration to the retail unit, erection of a trolley store, laying of hardstanding (not subject of this permission) shall be carried out without having first obtained written approval from the local planning authority.

Reason: Any additional development at the site could result in it becoming overdeveloped and cramped. Furthermore the site is in close proximity to other residents and further unchecked development could harm their amenities. Relevant Polices DG1, paragraph 127 of the NPPF (2019).

5 Prior to any construction works at the site, details of the measures to be taken to acoustically insulate all habitable rooms of the development against aircraft noise, together with details of measures to provide ventilation to habitable rooms, have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried out and completed before the development is first occupied for residential purposes and retained.

Reason: To ensure an acceptable living environment for future occupiers. Relevant Policies Local Plan NAP2, H10.

6 Deliveries by any vehicle used for commercial purposes shall only be made to or from the site between the hours of 7am to 10pm Monday to Fridays and between 8am and 6pm Saturdays and 9.30am and 4pm on Sundays or Bank or Public Holidays.

Reason: To protect the residential amenities of the area. Relevant Policy Local Plan NAP3.

7 No part of the development shall be occupied until vehicle parking space has been provided in accordance with the approved drawing 11120.25c. The space approved shall be retained for parking 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. Relevant Policies - Local Plan P4, DG1.

8 No part of the development shall be occupied until visibility splays of 2.4 metres by 36 metres to the right (east), by 43m to the left (west) 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.

9 Prior to the occupation of any of the residential units or retail floorspace approved under this application and notwithstanding cycle storage details shown on the approved plans, details of where covered and secure cycle parking facilities will be provided for the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be kept available for the parking of cycles in association with the development at all times.

Reason: To ensure that the development is provided with adequate parking facilities in order to encourage the use of alternative modes of transport and encourage sustainable modes of transportation. Relevant Policies - Local Plan T7, DG1, and the National Planning Policy Framework (2019)

10 No part of the development shall be occupied until full details of the refuse bin storage areas and recycling facilities shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority. The submitted details should include details of any bin housing, as well as the type and size of bins to be used. Hereafter the 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.

- 11 No lighting shall be erected in the car park without details of the lighting first being submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure the character and appearance of the development and area is not harmed by excessive illumination and to protect the amenities of nearby residents. Relevant Policies DG1 and paragraph 127 of the NPPF (2019).
- 12 Irrespective of the details shown on the approved plans, prior to any occupation of the retail store, details of the location and design of the trolley park shall be first submitted to and approved in writing by the Local Planning Authority, thereafter the trolley park shall be provided and maintained in accordance with the approved details.
Reason: In the interests of the visual amenities of area and site. Relevant Policy DG1
- 13 Prior to any construction works at the site, full details of both hard and soft landscape works, including details of all proposed surfacing, boundary treatments (including fencing, walls and other means of enclosure), and measures that will be taken to safely uplift and replant the TPO oak tree at the front of the site, shall be submitted to and approved in writing by the Local Planning Authority. Hereafter all of the approved works shall be carried out as approved. Any approved planting shall be carried out within the first planting season following the substantial completion of the development and 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, unless the Local Planning Authority gives its prior written consent to any variation.
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, N6.
- 14 Prior to any construction works at the site, a surface water drainage scheme for the development, based on the submitted Engineering Layout drawing (number C21720 - 601 rev C), shall be submitted to and approved in writing by the Local Planning Authority. Details shall include: - Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels and relevant construction details.- Supporting calculations confirming compliance with, the Non-statutory Technical Standards for Sustainable Drainage Systems, and the agreed discharge rate of 3 l/s and the attenuation volumes to be provided.- Details of the maintenance arrangements relating to the proposed surface water drainage system, confirming who will be responsible for its maintenance and the maintenance regime to be implemented. The surface water drainage system shall be implemented and maintained in accordance with the approved details thereafter.
Reason: To ensure compliance with the National Planning Policy Framework and the Non-Statutory Technical Standards for Sustainable Drainage Systems, and to ensure the proposed development is safe from flooding and does not increase flood risk elsewhere.
- 15 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.
Reason: In the interests of highway safety and the free flow of traffic. Relevant Policies - Local Plan T5, DG1.
- 16 The tree protection measures set out in drawing 11120-d_2013-02-22, Barrel Plan Ref:19233-BT1, received 17/10/19 shall be fully implemented prior to the commencement of development (excluding demolition) and maintained until the development is completed, unless otherwise agreed in writing by the Local Planning Authority.
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, N6
- 17 Prior to any occupation of the development details of biodiversity enhancements relating to the development as a whole shall be submitted to and approved in writing by the Local Planning Authority. This shall include a schedule of undertaking that the proposed works and maintenance and management of these areas shall accord with the proposed landscaping works set out in condition 3. Thereafter the works shall be carried out entirely in accordance with these approved details.
All agreed biodiversity enhancements shall be undertaken and maintained in accordance with an agreed management plan.

Reason: In the interest of biodiversity enhancements as required by the National Planning Policy Framework (2019).

- 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 There should be no collections from or deliveries to the site during the demolition and construction stages outside the hours of 0800 hours and 1800 hours on Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays. Reason: To protect the amenity of the adjoining properties.
- 2 The Royal Borough receives a large number of complaints relating to construction burning activities. The applicant should be aware that any burning that gives rise to a smoke nuisance is actionable under the Environmental Protection Act 1990. Further that any burning that gives rise to dark smoke is considered an offence under the Clean Air Act 1993. It is the Environmental Protection Team policy that there should be no fires on construction or demolition sites. All construction and demolition waste should be taken off site for disposal. The only exceptions relate to knotweed and in some cases infected timber where burning may be considered the best practicable environmental option. In these rare cases we would expect the contractor to inform the Environmental Protection Team before burning.
- 3 The applicant is advised that neither the approved plans or description of the development include any fixed plant, flue or extractor equipment. The provision of such a equipment is likely to constitute development and therefore a separate planning permission will be required for those works.
- 4 The applicant is advised to follow guidance with respect to dust control: London working group on Air Pollution Planning and the Environment (APPLE): London Code of Practice, Part 1: The Control of Dust from Construction; and the Building Research Establishment: Control of dust from construction and demolition activities. The applicant should be aware the permitted hours of construction working in the Authority are as follows: Monday - Friday 08.00 - 18.00, Saturday 08.00 - 13.00. and no working on Sundays or Bank Holidays.

DEVELOPMENT CONTROL PANEL

4 December 2019

Item: 5

Application 19/01755/FULL

No.:	
Location:	Squires Garden Centre Maidenhead Road Windsor SL4 5UB
Proposal:	Erection of 37 dwellings including the re-location of existing access along Maidenhead Road with associated parking, internal circulation, public open space, landscaping and related infrastructure
Applicant:	Bewley Homes Plc And Square Bay (no5) LLP
Agent:	Mrs Hannah Knowles
Parish/Ward:	Bray Parish/Clewer And Dedworth West
If you have a question about this report, please contact: Antonia Liu on 01628 796034 or at antonia.liu@rbwm.gov.uk	

1. SUMMARY

- 1.1 The proposal is for the erection of 37 dwellings including the relocation of the existing access along Maidenhead Road with associated parking, internal circulation, landscaping and related infrastructure.
- 1.2 The site lies in Green Belt and the proposed development is considered to be an inappropriate form of development in the Green Belt, would cause substantial harm to the openness of the Green Belt and would be contrary to one of its purposes. No case of Very Special Circumstances (VSC) has been demonstrated to outweigh the harm to the Green Belt and any other harm.
- 1.3 The Green Belt boundary is proposed to be amended and the site forms part of a larger parcel of land allocated for housing, ref: HA11 Land West of Windsor, north and south of the A308 in the BLPSV, and land allocation ref: AL22 Squires Garden Centre, Maidenhead Road in the Proposed Changes to the BLPSV. There are significant unresolved objections with regards the housing land allocations proposed in the BLPSV and as a result all proposed allocations are given limited weight as a material consideration at this time.
- 1.4 The proposal includes highway improvements including dropped kerbs and tactile paving at crossing points along a route from the site to a bus stop on Ruddlesway to support sustainable modes of travel (walking). However, in the absence of a completed legal agreement the development fails to secure the required infrastructure to make this development acceptable in planning terms.
- 1.5 The proposal includes 30% of the proposed residential units as affordable housing, but in the absence of a completed legal agreement the development fails to secure the required affordable housing units this constitutes a reason for refusal.
- 1.6 Additional information has been submitted to address concerns raised on sustainable drainage, and further comments from the Lead Local Flood Authority. Any comments received will be reported in an update.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 13 of this report):

- | | |
|-----------|--|
| 1. | The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. The development causes substantial harm to the openness of the Green Belt. Very Special Circumstances that clearly outweighs the harm to the Green Belt and any other harm has not been demonstrated. |
| 2. | In the absence of a completed legal agreement the development fails to provide the necessary infrastructure needed to make this development acceptable in planning terms. |

3.	In the absence of a completed legal agreement the development fails to secure 30% Affordable Housing to make this development acceptable in planning terms with regards affordable housing provision.
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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 The site comprises land bounded by Maidenhead Road to the north; the A308/Maidenhead Road roundabout to the east; the A308 to the south and the residential dwellings to the west beyond which is open land; 'Willows Park Homes' site to the north west; and The Willows to the north – a former mansion house dating from 1850 which has been divided into a number of individual properties. The site was occupied by Squires Garden Centre which includes a car park, a single storey retail building and an open air plant display area, but has been vacated. The site is bounded by a red brick wall that forms part of the garden centre building to the north; a wrought iron fence to the east; trees/shrubs on the boundary with the A308 to the south; and a combination of close board fencing and trees to the west.

4. KEY CONSTRAINTS

- 4.1 The entire site lies in Green Belt, and in accordance with the accordance with the Environment Agency Flood Map for Planning the eastern corner of the site lies in Flood Zone 2

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The proposal is for the erection of 37 dwellings including the relocation of the existing access along Maidenhead Road with associated parking, internal circulation, landscaping and related infrastructure.
- 5.2 The proposal includes two blocks of flats, one located at the inward curve of the site at the roundabout junction of A308 and Maidenhead Road (plot 27-37) and the other located to its west adjacent to the A308 (plot 18-26). The remaining dwellings comprise of 2 detached houses and 4 pairs of semi-detached houses along the western boundary of the site (plot 2-12), 2 detached dwellings fronting Maidenhead Road (plot 1 and 13), and a terrace of 4 houses within the site (plot 14-17). The blocks of flats are 2 to 3 storey in height, while the houses are 2 to 2 and half storey in height. Access is via Maidenhead Road and the internal road layout terminates in a cul-de-sac.
- 5.3 Following negotiation during the course of the application, design changes were made to the scheme and revised plans were received on the 20 September 2019. The main changes relate to the roof form and architectural detailing on the blocks of flats. Further changes to the architectural detailing were to the blocks of flats were received on the 14 November 2019.
- 5.4 There is extensive planning history for the site associated with the operation of the garden centre. In terms of relevant planning history for the redevelopment of the site for residential, there was an application for the erection of 39 dwellings, creation of a new access of Maidenhead Road, provision of parking, internal circulation, public open space, landscaping and related infrastructure that was withdrawn by the applicant on 13 March 2019, ref: 18/03754/FULL.

6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

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

Issue	Adopted Local Plan Policy
Green Belt	GB1
Design character and appearance of area	DG1, H10,H11
Affordable Housing	H3
Highways	P4, T5, T7
Flooding	F1

These policies can be found at

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

7. MATERIAL PLANNING CONSIDERATIONS

National Planning Policy Framework Sections (NPPF) (2019)

Section 2 – Achieving Sustainable Development

Section 4 – Decision Making

Section 5 – Delivering a Sufficient Supply of Homes

Section 8 – Promoting Healthy and Safe Communities

Section 9 – Promoting Sustainable Transport

Section 11 – Making Effective Use of Land

Section 12 – Achieving Well-Designed Places

Section 13 – Protecting Green Belt Land

Section 14 – Meeting the Challenges of Climate Change, Flooding and Coastal Change

Section 15 – Conserving and Enhancing the Natural Environment

National Design Guide

This document was published in October 2019 and seeks to illustrate how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. The focus of the design guide is to look at layout, form, scale, appearance, landscape, materials and detailing. It further highlights ten characteristics which help which work together to create its physical Character, these are context, identity, built forms, movement, nature, public spaces, uses, homes and buildings, resources and life span.

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
Housing Development	HO1, HO2, HO5
Affordable Housing	HO3
Trees, Woodlands and Hedgerows	NR2
Infrastructure Provision	IF1
Sustainable Transport	IF2

Community Facilities	IF7
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Borough Local Plan: Submission Version Proposed Changes (2019)

Issue	Local Plan Policy
Appropriate Development In Green Belt and acceptable Impact on Green Belt	SP1, QP5
Design in keeping with character and appearance of area	QP1, QP3
Housing Development	HO1, HO2
Affordable Housing	HO3
Trees, Woodlands and Hedgerows	NR3
Infrastructure Provision	IF1
Sustainable Transport	IF2
Community Facilities	IF6

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 was submitted to the Secretary of State for independent examination in January 2018. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough.

In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV which are now out to public consultation until Sunday, 15 December 2019. All representations received will be reviewed by the Council to establish whether further changes are necessary before the Proposed Changes are submitted to the Inspector. In due course the Inspector will resume the Examination of the BLPSV. The BLPSV and the BLPSV together with the Proposed Changes are therefore material considerations for decision-making. However, given the above both should be given limited weight.

These documents can be found at:

<https://www3.rbwm.gov.uk/blp>

Supplementary Planning Documents

- RBWM Interpretation of Policy F1
- Interpretation of Policies R2, R3, R4, R5 and R6

Other Local Strategies or Publications

- 7.3 Other Strategies or publications relevant to the proposal are:
- RBWM Parking Strategy
 - RBWM Townscape Assessment
 - 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

58 occupiers were notified directly of the application. The planning officer posted a notice advertising the application at the site on 8 July 2019 and the application was advertised in the Local Press on 11 July 2019. 42 letters were received objecting to the application, summarised below. Following re-consultation on the 24 September 2019 an additional 13 letters were received from consultees who reiterated their original concerns.

Comment	Where in the report this is considered
Inappropriate development in the Green Belt, encroachment into the countryside, harm to openness, no Very Special Circumstances demonstrated to outweigh harm to the Green Belt	Section i, x
Assumes Borough Local Plan will be adopted, application is premature	Section i
Insufficient parking resulting in increase in on-street parking pressures	Section vi
Location of access is dangerous	Section vi
Density too high resulting in cramped development and overdevelopment of the site to the detriment of amenity for future occupiers and local character	Section iii
Out of character with the locality as there are no other flatter development or 3 storey buildings, and design is incongruous.	Section iii
Height and design of buildings are out of character with the area and overly dominate with surrounding properties.	Section iii
Increase in traffic resulting in congestion, increase in air pollution and to the detriment of highway safety; transport survey taken during summer holidays and therefore inaccurate	Section vi
Land liable to flood, inadequate drainage; increase in pressure on sewer network	Thames Water consultation response and Section ii
Inadequate social infrastructure to support the development e.g.GP surgeries	Section 10
Harm to off-site trees, and insufficient landscaping	Section iv
Harm to neighbouring amenity in terms of loss of view, loss of light, loss of privacy, increase in noise and disturbance	Section v
Decrease in open space and greenery, increase in built development resulting in harm wildlife	Section vii
Loss of local employment	The site is not within an identified site where the use is protected for employment.
Increase in crime	No evidence put forward that the proposed residential use is a crime generating development.

Loss of community use e.g. local café and restaurant which was by local residents to meet and socialise; development should include some kind of community facility	The extant use of the site (former garden centre with ancillary cafe) falls under A1 (retail) and not D1 (community use). As such, there is no objection in principle to its loss nor a requirement for a replacement within the scheme.
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Consultees

Consultee	Comment	Where in the report this is considered
Berkshire Archaeology	No objection subject to condition to secure implementation of a programme of archaeological works to be submitted and approved by the local planning authority.	Section viii
Bray Parish Council	<p>Raises objection to the proposal for the following reasons:</p> <ul style="list-style-type: none"> • Inappropriate development in the Green Belt and Very Special Circumstances has not been demonstrated • No certainty that the BLP (and changes) will be adopted • Density too high with harmful visual impact and lack of open space • Inadequate parking • Flood risk • Highway safety from new access • Increase in traffic adding to congestion at peak times 	Section i, ii, iii, iv, x
Ecology	No objection subject to conditions relating to a construction environmental management plan; removal of rhododendron; examination of the bat feature by an ecologist prior to demolition works and dismantling by hand; and biodiversity enhancements, and informative relating to breeding birds.	Section vii
Environment Agency	Refers the Local Planning Authority to standing advice.	Section ii
Highways	No objection in principle but further information required in relation cycle parking.	Section vi
Lead Local Flood Authority	Additional information requested to address concerns over the infiltration rates which were based on above average infiltration rates while best practice indicates that the lowest determined infiltration rates should be used in calculations, and how properties at plot 18-26 will be protected from internal flooding as the submitted information indicates that exceedance flows will be directed towards these properties.	Section ii
Trees	Raises objections over the failures to secure the long-term retention of off-site trees and the	Section iv

	landscaping scheme is insufficient to soften the built form or provide a level of enhancement for such a large and prominent development.	
Thames Water	No objection with regard to foul water sewage network infrastructure capacity based on the information provided as the application indicates that surface waters will not be discharged in to the public network.	Section ii

Other Responses

Group	Comment	Where in the report this is considered
Access Advisory Forum	Insufficient information submitted.	Noted.
Oakley Green and Fifield Residents Association	<p>Raises objections for the following summarised reasons:</p> <ul style="list-style-type: none"> • Inappropriate development in the Green Belt, loss of openness, conflict with the purposes of the Green Belt, no very special circumstances • Prematurity in relation to the BLPSV • Higher density, cramped layout, scale and massing is out of character with surrounds • Proposed access is unsafe • Insufficient on-site parking resulting in increase in parking pressure off-site • Flood risk • Existing poor air quality and additional vehicle use would add to this • Loss of community asset and employment (garden centre and café) 	<p>Section i, ii, iii, vi, x</p> <p>The extant use of the site (former garden centre with ancillary cafe) falls under A1 (retail) and not D1 (community use). As such, there is no objection in principle to its loss nor a requirement for a replacement within the scheme.</p>
Windsor and Eton Society	<p>Raises objections for the following summarised reasons:</p> <ul style="list-style-type: none"> • Inappropriate development in the Green Belt, loss of openness • Prematurity in relation to the BLPSV • Overdevelopment of the site • Blocks of flats are imposing and overly dominant, would detract from The Willows • Design out of keeping with sense of place • Loss of trees which are important along the A308 • Over dominance of parking to the centre of the site • Inadequate surface water drainage 	Section i, ii, iii, iv, vi, x

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Green Belt
- ii Flood Risk
- iii Character and Appearance
- iv Trees
- v Residential Amenity
- vi Highways
- vii Ecology
- viii Archaeology
- ix Affordable Housing
- x The Case for Very Special Circumstances
- xi Planning Balance

i Green Belt

- 9.2 The entire site lies within the Metropolitan Green Belt and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 145 of the NPPF states that new buildings in the Green Belt should be regarded as inappropriate development with some exceptions. Local Plan policy GB1 and BLPSV policy SP5 also sets out appropriate development in the Green Belt. However, the Local Plan was prepared in accordance with the cancelled PPG2 Green Belts and therefore not entirely consistent with the NPPF. As such, GB1 is 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 limited weight as a material consideration. The NPPF is considered to be a more up-to-date expression of Government intent and a material consideration of significant weight.
- 9.3 In this context, paragraph 145 (g) of the NPPF states that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), need not be inappropriate development in the Green Belt. This is subject to the development not having a greater impact on the openness of the Green Belt than the existing development; or not causing substantial harm to the openness of the Green Belt where the development would re-use previously development land and contribute towards meeting an identified affordable housing need within the area of the local planning authority. It is considered that the proposal would not clearly fall under any of the other exceptions.
- 9.4 In this case, the site would fall under the definition of previously developed land given in the Appendix 2 of the NPPF as the site is entirely occupied by a former garden centre with a main building and associated hardstanding that was used for storage, display area and a car park.
- 9.5 Turning to the impact on openness, the concept of openness relates to the lack of development or built form, however *Turner v SSCLG and East Dorset Council* [2016] and *Goodman v SSCLG* [2017] established that the impact of openness of the Green Belt should be assessed taking into account both its spatial and visual impact, while *Euro Garages Limited v SSCLG* [2018] establishes that greater floor area and/or volume does not necessarily mean that there is a greater impact. It is also necessary to consider “the impact or harm, if any, wrought by the

change". This Case Law is a material consideration. In response to this case law the National Planning Policy Guidance (NPPG) which supports the NPPF (2019) advises that in addition to volume the visual impact of the proposal may also be relevant.

- 9.6 The proposed housing development would equate to a footprint of approximately 1725.5sqm which represents an increase from the existing footprint that measures approximately 1652sqm. However, the existing building is single storey measuring approximately 4.5m in height and has a much lower profile than the proposed two-storey houses measuring approximately 8.5m to 10.5m in height and the two to three storey blocks of flats measuring 8.2 to 12.5m. Furthermore the blocks of flats have significant width and are very prominently located. The existing building is significantly lower in height than the proposals and is concentrated in a visually less prominent position in the north-western corner of the site. The residential dwellings would visually spread across the entire site including to areas previously used for storage, plant displays, car parking. While the extent of which these areas remain open and free from development is dependent on the intensity of use at a particular time, it is considered that the erection of taller permanent two to three storey buildings would have a substantially greater volumetric and visual impact on openness than the existing development.
- 9.7 Furthermore, the existing buildings being single storey in nature, glass houses and the other open storage and hard surfacing have a reduced physical and visual presence, a liken to an agricultural character. Compared with this would be markedly taller and solid buildings and the subdivision of the area into individual curtilages. It is considered that the quantum and amount of the more urban form of residential development proposed would substantially reduce openness of the Green Belt. While there would be some modest screening from trees, the increased amount of development and its visual impact in Green Belt terms would be very apparent from Maidenhead Road, the A308 (Maidenhead Road and Windsor Road), the roundabout junction, nearby residential properties, and Ruddlesway, in particular with the higher density of development (the blocks of flats) located towards the A308 and the roundabout junction.
- 9.8 Consequently, taking into account the footprint, height, scale and siting of the proposed development it is considered that the proposed development would have a greater impact on the openness of the Green Belt than the existing development and would lead to substantial harm to openness. Therefore, it is not considered that the proposal falls under exceptions in paragraph 145 of the NPPF and considered to be inappropriate development in the Green Belt.
- 9.6.1 For the reasons above the proposal is considered to constitute inappropriate development in the Green Belt. Paragraph 144 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC). The applicant considered that proposal to be appropriate development, but has also put forward a case for VSC within the submitted Planning Statement which is assessed below.
- 9.7 In terms of any other harm to the Green Belt, as inappropriate development in the Green Belt the proposal is by definition harmful to its openness. The more formalised and urban form of development spread across this site is considered to conflict with one of the purposes of the Green Belt, namely to assist in safeguarding the countryside from encroachment' which forms the third purpose outlined in paragraph 134 of the NPPF.
- 9.8 In the emerging Borough Local Plan (BLPSV) the Green Belt boundary is proposed to be amended through the BLPSV and the site forms part of a larger parcel of land allocated for housing (ref: HA11 Land West of Windsor, north and south of the A308). In the Proposed Changes to the BLPSV, the site is separated from the larger parcel of land and forms its own allocation for housing (ref: AL22 Squires Garden Centre, Maidenhead Road). However, as stated in Section 7 of this report both the BLPSV and Proposed Changes to the BLPSV are given limited weight as a material consideration.

ii Flood Risk

- 9.12 Part of the block of flats comprising of plot 27 to 37 is sited in Flood Zone 2 while the remainder of the site lies in Flood Zone 1. However, following a more detailed model undertaken by the EA shows that the site is elevated above the EA calculated Flood Zone 2 level. NPPG advises that it is not normally necessary to apply the Sequential Test, which aims to steer development away from areas at highest risk, to development proposals in Flood Zone 1. The Exception Test is not considered to be applicable as housing is considered to be 'more vulnerable' development in accordance with Table 2: Flood Risk Vulnerability Classification, which is appropriate development in Flood Zone 1 in accordance with NPPG Table 3: Flood Risk Vulnerability Classification. With reference to paragraph 163 of the NPPF, footnote 50 advises that a site specific flood risk assessment is not required in this case, and given its location in Flood Zone 1 it is not considered that the proposed development would increase flood risk elsewhere.
- 9.13 To accord with paragraph 165 of the NPPF, as the proposal falls into the category of major development (10 units or more), a sustainable drainage system should be incorporated unless there is clear evidence that this would be inappropriate. The submitted sustainable drainage strategy proposes to attenuate the additional surface water from the development by incorporating permeable paving within all drives and carriageways, two storage tanks on site, and a hydrobrake at the outflows into the Thames Water assess. This is acceptable in principle, but further information is required on infiltration rates or alternatively details on how to prevent siltation of the soakaways; and how properties on plot 18-26 are protected from internal flooding. Further information to address these issues has been submitted by the applicant, and comments from the Lead Local Flood Authority will be reported in an update.

iii Character and Appearance

- 9.14 Local Plan policy H10 states that new residential schemes will be required to display a high standard of design and landscaping and where possible enhance the existing environment, while policy DG1 resists development which is cramped or which results in the loss of important features which contributes local character, and policy H11 resists development would introduces a scale or density which would be in incompatible with or cause damage to the character of the area. These policies accord with the NPPF which states that good design is a key aspect of sustainable development and indivisible from good planning, and planning permission should be refused for development of poor design that fails to take the opportunity available for improving the character and quality of an area and the way it functions. The recently published National Design Guide sets out the characteristics of well-designed places and what good design means in practice.
- 9.15 To the west is a group of individual houses set in spacious plots along a linear cul-de-sac. To the north is Willows Riverside Park, which comprises of detached, bungalow-style park homes on regular plots laid out in a predominately linear rows on both sides of the internal access road. To the north-east are mew houses generally arranged around a shared courtyard with long back gardens leading to the riverside. While the character of built development within the locality is diverse, the experience of the area is a verdant, semi-rural settlement with domestic scale development. Denser 1960s style residential development lies to the south-east within the Windsor settlement which is separated from the application site by the roundabout junction and the A308.
- 9.16 The proposed development would result in a density of approximately 53 dwellings per hectare (dph), which would be a significant uplift from the density of the existing locality which is around 20-35 dph. However, there are no objections to this increase in principle as it would represent an efficient use of land which is supported by paragraph 123 of the NPPF. Paragraph 123 of the NPPF states that where there is an existing shortage of land for meeting identified housing need planning decisions should avoid homes being built at low densities and ensure that developments make optimal use of each site. Furthermore, the National Design Guide advises that appropriate density will result from building types, form and character of the development as well the context.

- 9.17 The density of the proposed properties would increase from west to south-east with 13 x two and half storey detached and semi-detached houses towards the western and northern boundary of the site, that give way to 4-house terrace towards the centre and then 2 x two to three storey blocks of flats towards the south-eastern and eastern boundary of the site. This approach is considered to be appropriate, moving from the existing low density development to the west and higher density to the south-east. It is also considered that the higher density blocks of flats would provide a strong frontage to the site. Overall, with the reduction in units and a revised layout from the previous withdrawn scheme under 18/03754/FULL, it is considered that the proposal achieves sufficient space around buildings to provide adequate setting for each and intervening green space, which avoids a cramped overdeveloped appearance.
- 9.18 Concerns from local representations have been raised that the blocks of flats would be out of keeping as there is no other flatted development within the locality, and the height and scale would be visually dominant. The National Design Guide advises that a well-designed neighbourhood should provide a variety and choice of homes to suit all needs and so there is no objection in principle to flatted development in the area. However, the National Design Guide goes on to advice that different types need to be well integrated. It is considered that the success of integration is derived from the relationship with neighbouring development. In this case, the block of flats sited at plot 27-37 would be seen in context from many public vantage points with The Willows. However, the 2 storey section of the block of flats at plot 27-37 would be the nearest element to the Willows before stepping up to 3 storey. The 2 storey element is considered to reflect the domestic proportions the Willows and therefore, together with the intervening distance of approximately 17.5m and 25m to the two storey and three storey element respectively, would result in an acceptable visual transition.
- 9.19 Overall, the flatted development at plot 27-37 would be substantial building, but its form, detailing and materials have been designed to visually break up its mass and bulk. It is considered that there would have been a benefit by increasing the set back between the north-eastern corner of the building and the site boundary, but on balance the space around the building would provide an adequate setting.
- 9.20 The block of flats at plot 18-26 would be seen in context with the block of flats at plot 27-37 and the houses at plot 11-12, but there is sufficient separation distance from both to the extent that the proposed building at plot 18-26 to read as its own entity and not appear overbearing to the houses at plot 11-12.
- 9.21 The housing fronting Maidenhead Road are considered to reflect the form, detailing and materials of the houses to the opposite side of the road. The flatted development also incorporates reflective forms, detailing and materials including gable features with timber barge board detailing, brick headers over the window and render. Within the site, the form, detailing and materials are considered to diverge but it is considered within the site there can be more flexibility as the buildings seen within its own context.
- 9.22 Overall, it is considered that the proposed development would not harm the character and appearance of the streetscene and wider area.

iv Trees

- 9.23 Local Plan policy N6 requires new development to allow for the retention of existing suitable tree wherever practicable, should include protection measures necessary to protect trees during development and an appropriate tree planning and landscaping scheme, and where the amenity value of trees outweigh the justification for development then planning permission may be refused.
- 9.24 T1 (Yew), T23 (Ash) and T28 (Japanese maple) are shown to be removed on the submitted Tree Protection Plan ref: BEW21784-03C. In addition to these trees it is also considered that the proposal would also likely result in the loss of T16 (Cherry Plum) due to the encroachment of the

block of flats at plot 18-26 into the root protection area (RPA) and potential conflict between the resultant building and the future crown of the tree. As such, the viability of this tree cannot be assured and it should be assumed it would be lost as a consequence of the development. However, T1, T16 and T28 are identified as category C trees and in general category C trees should not impose a constraint on the development provided that their loss is adequately mitigated with replacement planting. T23 is identified as a category B tree, which is a tree of moderate quality with an estimated life expectancy of at least 20 years, but due to its unsustainable location along the western boundary of the site there are also no objections to its loss subject to adequate replacement planting

- 9.25 In relation to the impact on off-site trees, there are a number of significant trees located around the perimeter of the site on the adopted highway. Being the main road between Maidenhead and Windsor and the junction with Ruddlesway, the trees are highly visible and make a significant contribution to the verdant character of this section of the A308. The block of flats forming plot 27-37 would be in close proximity to the edge of the RPA of T11 (Common oak) and T12 (Cherry plum) while the house at plot 12 would be in close proximity to the edge of the RPA of T20 (Ash), but while this only allows for a slim margin of error in the construction process and siting of the build this is not considered to warrant refusal in terms of undue harm to the health and longevity of these tree. Additional concerns were also raised by the Council's Arboriculture Officer on potential conflict with T11 and the proposed flats at plot 27-37, including shading to rooms from the future growth of T11, leading to pressure from future owners/occupiers to prune or fell to the detriment of their health and longevity. However, the affected windows would not be the sole source of outlook and light and therefore also not considered to warrant refusal in terms of undue harm to its health and longevity.
- 9.26 A Landscape Masterplan was submitted ref: BEW2178410 rev. G. There are issues over the type trees, siting and rooting areas, but it is considered that in general the Landscape Masterplan demonstrates that there is sufficient room for adequate planting to mitigate the proposed loss of trees and to enhance the development. Therefore, if minded to approve a satisfactory landscape strategy can be secured by condition.

v Residential Amenity

- 9.27 Local Plan policy H11 states that planning permission will not be granted for schemes which introduce a scale or density of new development which would cause damage to the amenity of the area. As a material consideration of significant weight, paragraph 127 of the NPPF states that planning decisions should create a high standard of amenity for existing and future users.
- 9.28 The nearest residential properties are Willows Cottage, Willow House, Fold Cottage, Westlodge Cottage and Westwind Manor to the west, and nos. 1 and 2 Park Cottage, and nos. 1, 5 and 14 The Willows which are sited to the north on the opposite side of Maidenhead Road.
- 9.29 There would be a separation distance of approximately 20m between the proposed houses on plot no. 1-9 and Willow House and Fold Cottage. There is a lesser separation distance of approximately 16m between Willows Cottage and the proposed house on plot no. 11, but due to its orientation the proposed house would be angled away from Willows Cottage. As such, it is considered that there would be no undue impact in terms of loss of light, loss of privacy and visual intrusion to these neighbouring properties. It is noted that there would be garages sited within the rear garden of plot no. 1, 2, 5 and 8, close to the shared boundary. However, the garages would be single storey with an eaves height of approximately 2.2m at the eaves and hipped roof sloping away from the shared boundary. As such, the proposed garages are not considered to result in undue loss of light or visual intrusion.
- 9.30 The house at plot 1 would be sited opposite the entrance to Willows Riverside Park and so would have little to no impact to residential amenity for the existing properties to the north. The house at plot 13 would have a front-to-side relationship with no.1 and 2 Park Cottage. The side elevation of nos. 1 and 2 Park Cottage does not have any ground floor windows but there are 2 first floor

windows that appear to be primary windows serving habitable rooms. However, it is considered that there would be no undue loss of daylight to the windows as the proposed house at plot 13 would subtend a 25 degree line taken from the mid-point of each first floor window. The proposed house at plot 13 would result in an increase in visual presence of building development when viewed from no. 1 and 2 Park Cottage but houses sited on opposite sides of the road are not an uncommon relationship and there would be a separation distance of approximately 11m. The proposed house at plot 13 would also have a first floor window which would approximately align with a first floor window at nos. 1 and 2 Park Cottage, both of which serve a habitable room. However, it is considered that there should be less expectation of total privacy for windows facing a public highway and mutual overlooking between houses on opposite sides of the road is not exceptional. In relation to no. 1 The Willows, a proposed substation is sited opposite, but given the proposed scale of the substation and the approximate distance of 16.5m from no. 1 The Willows it is considered that there would be no loss of light or visual intrusion as a result.

- 9.31 The block of plot 27-37 would have a side-to-side relationship with no. 5 The Willows, sited on the opposite side of Maidenhead Road at a distance of approximately 17m. There are 3 ground floor and 2 first floor windows to the side elevation of no. 5 The Willows. Taking a 25 degree line taken from the mid-point of each ground floor window at no. 5 The Willows, the proposed building would subtend this line and so not considered to result in an undue loss of daylight to this neighbouring property. While the proposed building would be substantial in size, it is considered that the separation distance would be sufficient to mitigate any undue visual intrusion or overbearing when viewed from no. 5 the Willows. The distance is also considered to sufficiently mitigate any undue overlooking from proposed windows to existing windows at no. 5 The Willows.
- 9.32 In relation to residential amenity for future occupants, the proposed floor plans with furniture layout demonstrate that all rooms are of sufficient size and shape to function for the purposes which they are intended and all habitable rooms benefit from natural light and outlook. The proposed houses have private garden space, while the flats have a private balcony with the exception of the ground floor flats and access to an area of communal space.

vi Highways

- 9.33 Local Plan policy T5 requires all development proposals to comply with adopted highway design standards, policy P4 requires all development proposals to accord with adopted car parking standards, while policy T7 seeks to ensure that new development makes appropriate provision for cyclists including cycle parking.

Trip Generation

- 9.34 The submitted Transport Assessment compares the vehicular two-way trips generated by the existing development (travel survey) with the proposed development (TRICS), which is summarised in the table below. It is noted that the travel survey was undertaken during the summer holidays, which is normally advised against under best practice advises, but given the seasonal nature of the existing development the timing of the survey is considered to be sufficiently robust.

	AM Peak		PM Peak		Daily		Saturday Peak	
	Arr.	Dep.	Arr.	Dep.	Arr.	Dep.	Arr.	Dep.
Existing	18	0	2	15	112	122	53	53
Proposed	5	21	16	7	106	110	4	10
Net Change	-13	+21	+14	-8	-6	-12	-49	-43

Overall, there would be an increase of 8 in vehicular trips during the morning peak and 6 vehicular trips during the evening peak, an overall decrease of 18 vehicular trips daily, and a significant decrease of 92 vehicular trips during the Saturday Peak. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. On this basis it is considered that the trip generation of the proposal upon the local highway network and air pollution would be acceptable.

Access

- 9.35 A relocated access into the site has been proposed. As shown on drawing ref: 1903077-02 within the Transport Statement, the access can provide viability splays in both directions of 2.4m x 43m in accordance with the RBWM Highway Design Standards.

Parking

- 9.36 To facilities the new access, 2 on-street parking spaces will need to be relocated. There is no objection to this in principle, but the applicant will need to amend the existing Traffic Regulation Order in the event of any planning permission being granted and if minded to approve it is recommended that this is secured by condition.
- 9.37 The Council's adopted Parking Strategy requires a maximum provision of 1 car parking space per 1-bed unit, 2 car parking spaces per 2-3 bed unit, and 3 car parking spaces for a unit with 4 or more bedrooms. Based on the accommodation schedule in Appendix 1 of the Design and Access Statement, this equates to a maximum provision of 75 spaces for the proposal. The proposal would provide 73 on-site car parking spaces which is in compliance. The spaces also confirm to RBWM parking design standards. If minded to approve it is recommended that the on-site parking provision is secured by condition.
- 9.38 Cycle parking for the flats will be provided in communal cycle stores on the ground floor, while residents of the houses will be able to store bicycles within the curtilage of the dwelling. To ensure that the proposed provision of cycle parking at the site is in accordance with RBWM details of the cycle parking layout can be secured by condition.

Refuse Provision

- 9.39 A swept path analysis, drawing ref: 1803077-TK01 B in Appendix G of the Transport Statement, demonstrates that a RBWM refuse vehicle can successfully enter, turn and exit the site in forward gear. Therefore, the servicing and refuse arrangements are considered to be satisfactory.

Sustainable Transport

- 9.40 Drawing ref: 190377-03 there is a new footpath from the A308 Windsor Road to the bus stop on Ruddlesway which has been recently been installed along this route. This provides a direct route from the site to the bus stop. However, there is no natural surveillance from nearby residential properties or passing cars as the footpath is screened by trees and vegetation, and while fully lit it is acknowledged that this may be an issue for some pedestrians in hours of darkness including in the afternoon and early evening during the autumn and winter periods. To adhere to paragraph 103 of the NPPF, which states that development should offer a genuine choice of transport modes and maximise opportunities for sustainable transport, the applicant has proposed to improve a second route from the A308 to the bus stop to the east of the roundabout on Maidenhead Road, which is overlooked by residential properties but indirect, by installing dropped kerbs and tactile paving at pedestrian crossing points. This is considered to be acceptable. However, while the applicant has advised that a unilateral undertaking is being prepared to secure the above, at the time of writing this has not yet been submitted. In the absence of a satisfactory unilateral undertaking, the highway improvements to support

sustainable modes of transport (walking) is not secured. The proposal therefore fails to make adequate provision contrary paragraph 103 of the NPPF.

vii Ecology

- 9.41 As a material consideration Paragraph 175 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for then planning permission should be refused. Furthermore, protecting and enhancing the natural environment forms part of the 'Environmental' dimension of 'Sustainable Development' and paragraph 170 of the NPPF states that planning decisions should minimise impacts on and provide net gains for biodiversity

Habitats

- 9.42 The site lies within 5km and within the zone of influence of Windsor Forest and Great Park, a Special Area of Conservation (SAC) which is a European Designated site. The primary reason for designation is the significance of old acidophilous oak woods, range and diversity of sapxylic invertebrates, and fungal assemblages. The Natura 2000 data form for Windsor Forest and Great Park reports that the main threats relate to forest and plantation management and use; air pollution, invasive non-native species; and interspecific floral relations. Where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to be made in view of that site's conservation objectives. Paragraphs 175 and 176 of the NPPF state that development resulting in the loss or deterioration of Special Areas of Conservation should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. In this case the proposed development, along and in combination with the linked proposals, is not considered to have a significant effect on Windsor Forest and Great Park, due to the distance of the proposal from the SAC and therefore an appropriate assessment is not required.
- 9.43 The nearby river and woodland may also constitute Habitats of Principle Importance under Section 40 of the Natural Environment and Rural Communities Act (2006). Sutherland Grange, is a designated as a Local Nature Reserve and Local Wildlife Site located 405m east. However, as the application site is largely isolated from Sutherland Grange by main roads and existing development it is unlikely that the proposed works would significantly impact the Priority Habitats, Local Nature Reserve and Local Wildlife Site provided standard measures to reduce the risk of pollution are adhered to. Therefore if minded to approve, a Construction Environmental Management Plan should be prepared to include measures to reduce the effect of noise, vibration, dust and site lighting. This can be secured by condition.

Bats

- 9.44 The trees and buildings were assessed as having negligible to low potential to host roosting bats and no evidence of bats were observed. The summer house on site, identified as building no. 4 in the submitted Preliminary Ecological Appraisal, was noted to have a single potential bat entrance feature, which did not lead to a suitable roost space, but nevertheless the Preliminary Ecological Appraisal recommended that this feature if examined with an endoscope by an ecologist immediately prior to demolition works and subsequently dismantled by hand. If minded to approve this can be secured by condition.

Other Wildlife

- 9.45 Given the extent of habitats present and lack of nearby accessible ponds it is considered unlikely that great crested newts, reptiles, water vole and dormice are present on site, and no evidence of badgers were observed.

- 9.46 The site may be used by nesting birds. Breeding birds, their eggs and active nests are protected by the Wildlife and Countryside Act 1981 (as amended) and therefore if minded to approve then it is recommended an informative is added to advise that works to building roofs should be taken outside of the bird nesting season, or if it is not practical then such areas should be checked by a qualified ecologist immediately prior to clearance.

Biodiversity Enhancement

- 9.47 In line with paragraph 175 of the NPPF, development should incorporate opportunities for wildlife. To the area to the northern site boundary includes rhododendron, which if *Rhododendron ponticum* species is listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) which is illegal to plant or cause it to grow in the wild. As per the Preliminary Ecological Appraisal it is recommended that the rhododendron is removed in accordance with best practice. The Preliminary Ecological Appraisal also recommends that a biodiversity enhancement scheme is designed, which should include bat and bird boxes, hedgehog friendly fencing (there are records of hedgehogs in the surrounding area) and log piles etc. If minded to approve, it is considered that these measures are secured by condition.

viii Archaeology

- 9.48 Local Plan policy ARCH 3 states that planning permission will not be granted for proposals which appear likely to adversely affect archaeological sites of unknown importance unless adequate evaluation enabling the full implications of the development on archaeological interests is carried out prior to the determination of the application. This is supported by paragraph 189 of the NPPF which states that where a development site has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.49 The site lies within the Thames Valley which have been a focus of settlement, agriculture and burial from the earlier prehistoric period to the present day and important prehistoric finds have been recorded close to the application site. Therefore, the application site falls within an area of potential archaeological significance. If minded to approve, a programme of archaeological field evaluation in accordance with a written scheme of investigation, and any subsequent mitigation strategy, can be secured by condition. It is considered that this requirement can be secured post-permission in this particular case as there has been some previous development on the site.

ix Affordable Housing

- 9.50 The proposal includes 11 affordable units on site which accords with Local Plan policy H3 which requires that this development provides 30% affordable housing on site.
- 9.51 As material condition, paragraph 63 of the NPPF states that where major development involving housing, at least 10% of the homes are expected to be available for affordable home ownership, as part of the overall affordable housing contribution from the site unless this would exceed the level of affordable housing required in the area or prejudice the ability to meet the identified affordable housing need within the Borough. The Strategic Housing Market Assessment (SHMA) highlights needs of the Borough and sets out a tenure of 80% of social/affordable rented and 20% intermediate housing, but tenure mix is not specified in adopted policy and therefore it is considered that the NPPF should be a material consideration of more significant weight in this respect. In this case the proposal is for 6 units of shared ownership (units 29, 30, 33, 34, 36 and 37) and 5 units of affordable rent (units 27, 28, 31, 32 and 35), which would accord with the NPPF.
- 9.52 While the applicant is willing for the proposal to be policy compliant and has advised that a unilateral undertaking is being prepared to secure the above, at the time of writing this has not yet been submitted. In the absence of a satisfactory unilateral undertaking, the affordable housing contribution is not secured and the proposal therefore fails to make adequate provision for

affordable housing and is contrary to Local Plan policy H3 and paragraph 63 of the NPPF. However in the weight attributed to having a policy compliant affordable housing scheme will be considered further below as part of the wider planning balance.

x The Case for Very Special Circumstances

- 9.53 It has been demonstrated that in accordance with paragraph 143 of the NPPF the proposal is inappropriate development in the Green Belt and should not be approved except in very special circumstances (VSC). Paragraph 144 of the NPPF goes on to state that VSC would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.
- 9.54 The decision-taker has to exercise a qualitative judgment and ask whether the circumstances, taken together, are very special. The Courts have not defined 'very special', beyond confirming that the words must be given their ordinary and natural meaning. The Green Belt balancing exercise therefore needs to be if 'other considerations' put forward as part of this planning application equate to VSC which exists to outweigh the harm and any other harm.
- 9.55 In accordance with Paragraph 144 of the NPPF substantial weight against the proposal should be given to any harm to the Green Belt. This includes inappropriateness and conflict with one of the purposes of the Green Belt. In relation to other harm, significant weight against the development is given due to lack of affordable housing provision, and significant weight to the highway improvements to support sustainable modes of transport which are necessary to make the development acceptable in planning terms.
- 9.56 In terms of benefits, the applicant has put forward the following case for 'VSC'. Officers have assessed each in turn and then carried out a balancing exercise as required.

VSC put forward by the Applicant	Weight attributed by Officers
Housing Need Benefits	
Provision of 37 dwellings to meet exceptional need for both market and affordable housing	At the time of writing RBWM cannot demonstrate a 5 year housing land supply, therefore significant weight is given to the provision of housing as part of this scheme.
Provision of affordable homes (30%) of a mixed type and tenure	Affordable housing provision is simply seeking to comply with planning policy and no provision above and beyond that is proposed by the Appellants. Nonetheless in principle this does form a benefit to the proposed development which would go towards meeting the affordable needs of the Borough. The principle of providing 30% affordable housing can therefore be given moderate weight . However at this stage there is currently no legal agreement in place to secure such delivery.
Sustainable Development (Economic)	
Job creation at construction stage and operation stage.	Not quantified and in any case due to the short-term nature of these benefits this can be only given limited weight .
Increase in expenditure by residents on local services	Not quantified and in any case as the scheme is for 37 units the impact of this additional spend in the local economy would be limited therefore given limited weight .

Increase in council tax revenue and New Homes Bonus	Not quantified and in any case as the scheme is for 37 units the impact would be limited therefore given limited weight .
Sustainable Development (Social)	
Would facilitate a more balanced local demographic whereby younger people and families will enjoy greater opportunities to live locally with the supply of new homes, including affordable homes	Open market housing would be available to anyone, and affordable housing would be available to those eligible also regardless of age. The contribution of a particular tenure and mix of housing does not advance the matter any further. It is simply a contribution to the particular housing need which has been identified locally and therefore given no weight .
Sustainable Development (Environmental)	
Provision of green infrastructure and areas for ecological enhancements and net gain of biodiversity	Biodiversity gain as a result of biodiversity enhancements is considered to be a benefit of the scheme and therefore given limited weight .
Provision of SUDS scheme	Does not constitute VSC as provision is a policy requirement and therefore given no weight .
Provision of a high quality and attractive development on a redundant and vacant site, including new landscaping.	Does not constitute VSC as provision is a policy requirement and in any case all residential scheme irrespective of their location should be of a high quality design. Therefore given no weight .
Other Considerations	
The site forms part of the emerging allocation within the RBWM Borough Local Plan which has been submitted to Examination. The evidence base justifies the allocation.	For reasons set out above given the current status of the BLPSV limited weight is currently attributed to policies contained within this document. The emerging Local Plan is seeking to allocate a number of sites for Green Belt release, it is from the Inspector of the Local Plan to reach a decision on the test of soundness for such a release. An assessment of the impact on 'openness' for a particular planning application is materially different to that undertaken as part of a wider Green Belt Assessment forming justification for a green belt release in the context of a Local Plan. The test for considering the appropriateness of a proposed development in the context of a planning application are set in 145 of the NPPF, these are different from the Local Plan tests relating to the review of boundaries. Limited to no weight can be given to this as part of VSC
Site constitutes previously development and other than Green Belt does not have any other designated constraints.	The application has been considered in the relevant context for such land and officers have clearly conclude that the development would result in substantial harm to the

	openness of the Green Belt. This clearly does not constitute VSC and therefore given no weight .
Site represents a suitable location for development as situated in main urban centres within the Borough and in proximity to a number of local services. Furthermore, the proposed allocation HA11 is identified to deliver open space, sports pitches, educational facilities and community hub.	<p>Proposed allocation under HA11 in the BLPSV and AL22 in the Proposed Changes to the BLPSV is given limited weight given the extent of unresolved objections to and there is no certainty if or when this may transpire; and it is not considered that the site lies within the main urban centre (Windsor or Maidenhead).</p> <p>The proposed scheme does not delivery any of community facilities as part of this scheme.</p> <p>For the scheme to be 'suitable' it should be located in a sustainable location. Para 11 of the NPPF is clear that this development would not be sustainable development as Green Belt policies provide a clear reason for refusing the development.</p> <p>Whilst the NPPF (2019) also requires LPA's to support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using <u>suitable sites</u> (<i>our emphasis</i>) within existing settlements for homes. This development is not in a within existing settlement and therefore not considered to be a suitable site for windfall development</p> <p>Therefore limited weight can be given to this as a VSC.</p>

9.57 The overall harm to the Green Belt own its own is considered to equate to very substantial harm, the highest level of harm. The case of VSC put forward by the applicant would not clearly outweigh harm to the Green Belt and any other harm, therefore the proposal would be contrary to Local Plan policy GB1, GB2(a) and paragraph 145 of the NPPF.

xi Planning Balance

9.58 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.*

9.59 Footnote 7 of the NPPF (2019) clarifies that:

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

- 9.60 The BLPSV is not yet adopted planning policy and the Council's adopted Local Plan is more than five years old. Therefore, for the purposes of decision making, currently the starting point for calculating the 5 year housing land supply (5hr hls) is the 'standard method' as set out in the NPPF (2019). At the time of writing, the Council is able to demonstrate 4.08 years of housing land supply. Therefore, for the purpose of this planning application the LPA currently cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).
- 9.61 However footnote 6 of the NPPF then further clarifies that section d(i) of paragraph 11 of the NPPF is not applied where *'policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'*. This includes land designated as Green Belt. For reasons set out in Section 9(i) it is considered that section d(i) of paragraph 11 is engaged as Green Belt policies in the NPPF, which protect areas or assets of particular importance, provides a clear reason for refusing the development proposed. As such, the tilted balance is not engaged and the planning balance is carried out in the ordinary way, having regard to the statutory test in section 38(6) of the 2004 Act. This is set out below in the conclusion.

10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 10.1 The Community Infrastructure Levy is a charge which can be levied by local authorities on new development in their area and an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area. In accordance with the Council's adopted CIL charging schedule the development is CIL liable at a rate of £240 per square metre (plus indexation) of chargeable floor space.

11. CONCLUSION

- 11.1 The proposed development constitutes an inappropriate form of development in the Green Belt, would result in substantial harm to the openness of the Green, and would be contrary to one of the purposes of the Green Belt. This harm to the Green Belt is afforded substantial weight against the development. The case of VSC put forward by the applicant would not clearly outweigh this harm and the harm to the character and appearance of the streetscene and locality. As such the proposal is contrary to Local Plan Policy GB1 and GB2(a), and paragraph 133, 134,143, 144 and 145 of the NPPF.
- 11.2 The proposed sustainable drainage system is acceptable in principle, but additional information has been submitted on infiltration rates and how properties will be protected from internal flooding. Further comments from the Lead Local Flood Authority will be reported in an update.
- 11.3 The proposed development would represent a significant uplift in density and the blocks of flats would be buildings which are larger in terms of height and mass than existing buildings in the locality. However, due to the proposed number of units, layout, building type, form and character, the proposal is not considered to be cramped within the site, visually dominant nor unduly incongruous. The proposal is considered to be in accordance with Local Plan policy H10, H11 and DG1.
- 11.4 There are no objections proposed loss of on-site trees which are of poor quality nor is it considered there would be undue conflict with retained trees and the proposed development. In terms of mitigation, it is considered that an acceptable landscaping scheme could be achieved to

mitigate for the loss of existing trees, soften the built form or provide an appropriate level of enhancement. The proposal is considered in accordance with Local Plan policy N6

- 11.5 The proposal is considered to be acceptable in terms of impact on neighbouring amenity. The proposed development would not have a significantly detrimental impact on the daylighting levels currently received by the nearby residential properties and would not result in significant increased overlooking or visual intrusion. The proposal is considered to accord with Local Plan policy H11 and paragraph 127 of the NPPF.
- 11.6 The proposal is considered to be acceptable in terms of highway safety and impact on local infrastructure. An acceptable level of parking provision is provided on site. The relocation of on-street parking and cycle storage can be secured by condition. However, the proposal fails to secure highway improvements to support sustainable modes of transport, contrary to paragraph 103 of the NPPF.
- 11.7 The proposed development is considered to be acceptable in terms of impact on ecology subject to conditions in accordance with paragraphs 170 and 175 of the NPPF.
- 11.8 The impact of the proposed development on archaeological sites of unknown importance is considered to be acceptable in accordance with Local Plan policy ARCH3 and paragraph 189 of the NPPF subject to a condition to requiring a programme of archaeological field evaluation in accordance with an approved written scheme of investigation, and any subsequent mitigation as necessary. It is considered that this requirement can be secured post-permission in this particular case as there has been some previous development on the site.
- 11.9 The proposal includes 30% of the proposed residential units as affordable housing, in the absence of a S106 legal agreement the development fails to secure an acceptable level. This would be contrary to Local Plan policy H3 and paragraph 62, 63 and 64 of the NPPF.

12. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan and Site Layout
- Appendix B – Proposed Plan and Elevation Drawings

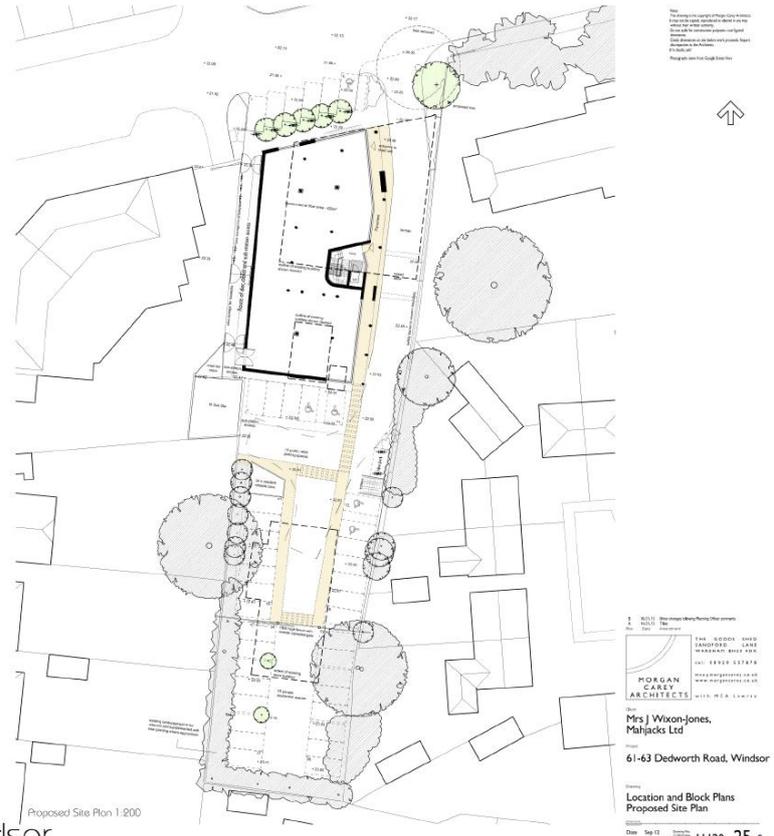
13. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt, would be substantially harmful to the openness of the Green Belt, and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. Very Special Circumstances that clearly outweighs the harm to the Green Belt and any other harm has not been demonstrated. The proposal is therefore contrary to the provisions of saved policies GB1 and GB2(a) of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), and paragraphs 133, 134, 143, 144 and 145 of the National Planning Policy Framework (2019),
- 2 In the absence of a completed legal agreement the proposed development has failed to secure the provision of the necessary infrastructure needed to make this development acceptable in planning terms. The proposed development is therefore to paragraph 103 of the National Planning Policy Framework (2019).
- 3 In the absence of a completed legal agreement the proposed development has failed to secure the provision of 11 affordable housing units (30% on site provision) to meet local needs. The proposed development is therefore contrary to policy H3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations made in 2003) and the National Planning Policy Framework (2019).

Appendix A – Site Location Plan



Appendix B – Proposed Site Layout Plan



61-63 Dedworth Road, Windsor

Appendix C – Proposed Floor Plans



61-63 Dedworth Road, Windsor

