

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD  
PLANNING COMMITTEE**

**WINDSOR URBAN DEVELOPMENT CONTROL PANEL**

17 August 2016

Item: 1

<b>Application No.:</b>	16/00653/FULL
<b>Location:</b>	Windsor Garden Centre Dedworth Road Windsor SL4 4LH
<b>Proposal:</b>	Installation of double canopy, wash screen, 2 No. cabins for office/rest room and secure storage, water storage tank and fence (retrospective)
<b>Applicant:</b>	Mr Shala
<b>Agent:</b>	Mr Stephen Egerton
<b>Parish/Ward:</b>	Bray Parish
<b>If you have a question about this report, please contact:</b> Nuala Wheatley on 01628 796064 or at <a href="mailto:nuala.wheatley@rbwm.gov.uk">nuala.wheatley@rbwm.gov.uk</a>	

**1. SUMMARY**

- 1.1 This is a retrospective application for the installation of a double canopy, wash screens, cabin (converted shipping container) for office/rest room, secure storage shed, water tank and fencing in association with an existing car wash facility.
- 1.2 The application site is located within the Green Belt and the rest/office cabin and double canopy is inappropriate development. No 'very special circumstances' exist to justify allowing this development.
- 1.3 Given the harm to the Green Belt arising from the development's inappropriateness and loss of openness, it is recommended that an enforcement notice be issued to secure the removal of the canopies and cabin from the site.

<b>It is recommended the Panel:</b>	
<b>1.</b>	Refuses planning permission for the reason that the cabin and double canopy are inappropriate development in the Green Belt and because there would a harmful impact on openness (the full reasons are summarised in Section 9 of this report); and,
<b>2.</b>	Authorises enforcement action so that the cabin and double canopy are removed from the site within 3 months.

**2. REASON FOR PANEL DETERMINATION**

- At the request of Councillor Pryer, on the basis of Green Belt issues and so that the application can be debated in an open forum.

**3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 The application site is within the car park of the Wyevale Garden Centre, situated on the northern side, and accessed from, Dedworth Road. The site is positioned along the southern boundary of the garden centre adjacent to its access and is enclosed by a bank of mature trees and shrubs to the south and west, the car park and garden centre being to the north and east of the site.
- 3.2 The site is located within the Green Belt where there is some sporadic residential development predominantly to the north-west, including The Old Farmhouse, a Grade II listed building.

**4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

Ref.	Description	Decision and Date
08/01976/FULL	Installation of a hand car wash operation to include	Refused, 22.09.2008.

	siting of a cabin and post mounted canopy.	
09/02073/FULL	Use of part of the car park as a car wash facility with storage/office shed (retrospective).	Refused, 26.11.2009.
10/00619/ENF	Enforcement Notice that, without planning permission, the material change of use of part of the land to a car wash facility with the siting of a storage and office shed.	Allowed and the Notice quashed 10.11.10.

- 4.1 The application seeks retrospective planning permission for a double canopy to cover the rinse and drying areas of a car wash facility, three wash screens, a 1.6m high screen fence, a cabin (shipping container) for staff and operations, a secure storage cabin and a water tank.
- 4.2 The car wash facility within the garden centre site was the subject of an enforcement appeal in 2010. In the decision for that appeal, the Planning Inspector considered the car washing use of the site to be ancillary to the main use as a garden centre. The Inspector did not consider that a material change of use had occurred and therefore the car washing use was not inappropriate development in the Green Belt. At the time of the appeal, there was also a small shed associated with the car wash and the Inspector considered that given its small size and its appearance as being ancillary to the overall garden centre development, it too was not inappropriate development in the Green Belt.
- 4.3 The car wash facility has now been moved from the east side of the garden centre car park to the southern part of the site, adjacent to the access off Dedworth Road. In association with this use there are a number of operational developments, which are the subject of this application, these are: The rest/office cabin (converted shipping container), which measures 6m long by 2.4m wide and 2.6m high, the two canopies, each measuring 7.95m long, 5m wide and 3.3m in height, a storage cabin measuring 2m long by 1.5m wide with a maximum height of 2m, 3 wash screens, each being 2m wide and, as confirmed by the agent, no higher than 2m, plus a 1.6m high fence screening adjacent to the wash area and a water storage tank to the rear of the office cabin.

## 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework (NPPF): Relevant section 9, Protecting Green Belt land.

### Royal Borough Local Plan

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

	Green Belt	Listed Building	Highway Safety and Parking
Local Plan	GB1, GB2	LB2	P4

### Other Local Strategies or Publications

- 5.3 Other strategies or publications relevant to the proposal are:

- RBWM Parking Strategy – view at: [http://www.rbwm.gov.uk/web\\_pp\\_supplementary\\_planning.htm](http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm)

## 6. EXPLANATION OF RECOMMENDATION

- 6.1 The key issues for consideration are:

- Whether the development is appropriate in the Green Belt;
- The impact of the proposal on the openness of the Green Belt and on the character and appearance of the area;

- iii The impact of the proposal on the setting of the nearby listed building;
- iv The impact of the proposal upon the living conditions of the occupants of nearby residential properties;
- v Whether sufficient on site parking space is available; and
- vi Whether, on balance, the proposal is acceptable.

### **Whether the proposal is appropriate development in the Green Belt**

- 6.2 The application seeks retrospective planning permission for the operational development associated with the car wash facility that exists on the site, rather than the use of the site for car washing. Under the appeal against the enforcement notice, the car wash use itself was considered by the Planning Inspector to be ancillary to the garden centre and therefore no material change of use of the whole site had taken place. Although the Inspector made his decision when Planning Policy Guidance Note 2 (PPG2), Green Belts, was in effect, rather than the current NPPF, the car wash facility on site remains of a similar size to the appeal proposal and, as such no material change of use has taken place. Accordingly, the car wash use of the site remains ancillary to the main use of the garden centre.
- 6.3 The material difference between the appeal proposal and the current proposal is the amount of operational development involved. Under the appeal proposal, the only operational development proposed was a small shed of approximately 2.3m long and 1.9m wide. At that time, the test under PPG2 was whether the development would have a material impact on the openness of the Green Belt. The Planning Inspector took the view that because the shed was small in size and appeared as being ancillary to the overall garden centre development, it was not inappropriate development in the Green Belt. Since that appeal decision, national planning policy has changed and is now outlined in the National Planning Policy Framework (NPPF). Paragraphs 89 and 90 set out the types of development that are considered not inappropriate in the Green Belt.
- 6.4 In terms of the current application, as the wash screens and fence do not exceed 2m in height they are permitted development and therefore no objection is raised to these. Paragraph 89 of the NPPF also allows for the replacement of a building in the Green Belt provided it is in the same use and not materially larger than the building it replaces, such that the storage cabin and water storage tank can reasonably be considered to be appropriate in this location. However, neither the double canopy nor the office cabin fall within the list of appropriate developments as set out in paragraphs 89 and 90 of the NPPF. As Paragraph 87 of the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 6.5 The agent has advised that the cabin (converted shipping container) is not a building as it is a moveable structure. However, one of the tests of whether a structure falls within the definition of a building is its permanence. In this case, full planning permission has been applied for in respect of the cabin, not temporary permission. While it may be capable of being moved, there is no evidence to suggest that it is intended to be temporary. It is therefore reasonable to assume it is permanent and therefore a building for which planning permission is required.
- 6.6 In summary, the proposal is inappropriate development in the Green Belt. In accordance with Paragraph 88 of the NPPF substantial weight is afforded to the harm to the Green Belt by reason of the development being inappropriate.

### **The effect of the proposal on the openness of the Green Belt and on the character and appearance of the area**

- 6.7 The canopies and office cabin are located on what was part of the car park for the garden centre. They are permanent structures (unlike cars) and therefore result in some loss of openness to the Green Belt. Keeping the land permanently open is the fundamental aim of Green Belt Policy. Substantial weight too is afforded to the actual harm to openness.

- 6.8 Notwithstanding the impact on the openness of the Green Belt in which the site is located, it is also located within a fairly enclosed commercial site, in which there is a large garden centre building, car park and associated development. Relative to the main development on site, the proposal is modest and well screened. It is not considered that the proposal harms the rural character or appearance of the area.

### **The impact on the setting of the nearby listed building**

- 6.9 The garden centre site is located adjacent to The Old Farmhouse; however, the car wash facility is positioned approximately 70m away. Given this separation distance, together with the screening provided along the west boundary of the site and the fact that the main garden centre building is positioned much closer, it is not considered that the proposal harms the setting of the listed building. The proposals accord with Policy LB2 of the Local Plan and special regard has been paid to the desirability of preserving the setting or any features of special architectural or historic interest which it possesses, as required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Impact on the living conditions of neighbours**

- 6.10 Given that the use of the site for a car wash, together with the screens and fencing are lawful development, it remains to assess whether the cabin, canopies, storage shed and water tank would harm the living conditions of any neighbours in respect of causing loss of privacy, appearing overbearing and/or resulting in loss of light.
- 6.11 As the operational development relating to the use would be at least 45m away from the nearest residential property, is single storey and in use during the opening hours of the garden centre only, it is not considered that it would harm the living conditions of any neighbours.
- 6.12 Should noise disturbance arise from the use of the car wash this would fall to be investigated by Environmental Protection, under separate legislation from Planning.

### **Whether there is sufficient on-site parking for the garden centre**

- 6.13 Under a previous application, (08/01976/FULL) the garden centre provided 119 car parking spaces. A subsequent application (09/02073/FULL) resulted in a reduction to 103 spaces. Currently on site there are around 93 parking spaces, but this reduction is primarily due to a number of the spaces being used as a loading facility for the garden centre, and is not a constant figure.
- 6.14 The Authority's Parking Strategy set a parking requirement for A1 (Garden Centre) use at 1 parking space per 25m<sup>2</sup>, plus 1 lorry space per 500m<sup>2</sup>. Based upon the details submitted it is unclear whether the loading/unloading activities that occur on site, plus the general management of the parking spaces ensures that the garden centre provides sufficient spaces to satisfy its own requirement.
- 6.15 However, the site was visited by a Highways Officer to observe the car parking occupancy level during two busy periods. The site was first visited on the 26<sup>th</sup> May 2016 and on the 30<sup>th</sup> May 2016 (Bank Holiday Monday), which is widely acknowledged as being one of the busier periods for this type of use. On both occasions there was sufficient capacity within the car park so not to lead to customers parking on Dedworth Road or in the surrounding areas. Based on this evidence, the Highway Authority raises no objections to the proposal in terms of parking provision.

### **The Planning Balance**

- 6.16 As the canopies and cabin are inappropriate development in the Green Belt, as outlined in paragraphs 6.2 to 6.6 above, it remains to assess whether 'very special circumstances' exist in this case that would justify allowing the development. Paragraph 88 of the NPPF advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.

6.17 In this case, although not specifically referred to as 'very special circumstances', the agent has provided information in support of the proposal. In summary these are cited as:

- The proposal is an upgraded replacement all weather facility (to allow valeting in wet weather);
- The container is a replacement building which is allowed in the Green Belt. In any case, the container is a temporary, moveable structure that does not require planning permission;
- The operational development is small in scale and appears visually and physically ancillary to the garden centre;
- Retention of this local service is a benefit to avoid people travelling further a field to an alternative facility. It is a one-stop shop and sustainable;
- The operational development are essential facilities to a use that maintains the openness of the Green Belt;
- The proposal would bring investment, jobs and spending to the rural area;
- It helps underpin the Garden Centre's future viability and vitality;
- It sits comfortably within the existing complex and would not harm the openness, character or appearance of the open countryside and that part of the Green Belt;
- It is in line with the economic role of sustainable development and the Government's aim of boosting significantly the rural economy.

6.18 Taking each of the above points in turn, it is considered:

- The enforcement appeal related to a 'simple' car washing facility with only a small shed as operational development. The car wash can be upgraded while remaining ancillary to the garden centre.
- The previous shed associated with the car wash was 2.3m by 1.9m. If the converted container is to be treated as a replacement building then, at 6m by 2.4m it is clearly materially larger and therefore inappropriate development. While the converted container may be capable of being moved, temporary permission has not been applied for in this case and given that the use is permanent, it is reasonable to assume that the cabin is intended to be permanent too. The cabin is therefore a building that requires planning permission;
- The Planning Inspector considered the previous car washing facility and small shed to be visually and physically ancillary to the garden centre. Although within the garden centre site, the car washing facility has been moved to the southern most point further away from the main garden centre building and activities. Arguably, it is physically and visually detached from the garden centre. Notwithstanding this, the scale of operational development has materially changed since the appeal and therefore it is not comparable to what was previously allowed on the site;
- Given the decision on the enforcement appeal allowed a car wash facility on this site, there is no objection to this use. As such, this "local service" would not be lost as a result of planning. It would still remain a 'one-stop shop' if people visiting the garden centre got their cars washed at the same time;
- The issue of whether the operational development is essential to the use of the site is not a test within the NPPF when assessing the appropriateness of the development in the Green Belt;

- It is not clear from the information provided what investment has arisen in the area as a direct result of the development, nor any additional jobs that may have been created or additional spending in the rural area;
- It is not clear from the information provided is whether it is critical to the viability of the garden centre;
- While it is acknowledged that the operational development would not harm the character and appearance of the rural area, it would result in loss of openness to the Green Belt;
- It is acknowledged that the proposal may make a positive contribution to the rural economy although no specific evidence of this has been submitted with the application.

6.19 In weighing up the various issues, in line with Government advice substantial weight is given to the harm to the Green Belt by reason of inappropriateness and loss of openness. It is not considered that there is any other harm in addition to this. In favour of the proposal, the “upgraded all weather facility” is considered to add to the vitality of the garden centre and some weight is given to this. However, in the absence of any specific evidence, no weight is given to the other issues given in support of the application. As such, it is not considered that there are other considerations that clearly outweigh the substantial harm to the Green Belt, and therefore very special circumstances do not exist in this case.

6.20 As this is a retrospective application, the Planning Authority must consider whether it is expedient to take enforcement action to remove the canopies and cabin from the site. As this operational development causes harm to the Green Belt, it is recommended that an Enforcement Notice is issued.

## OTHER MATERIAL CONSIDERATIONS

6.21 The issue of potential problems from surface water has been raised by local residents. As this is not a major application, the Lead Local Flood Authority has not been consulted on the application to advise on this matter. Should the use of the car wash cause surface water problems in the area specifically to pollution of waters, it would be a matter for the Environment Agency to investigate and resolve, rather than the Local Planning Authority. As it stands, the use of the site as a car wash did not give rise for concern by the Planning Inspector and, with the removal of the operational development that facilitates the car valeting, it is not considered that the continuation of the car wash as allowed at appeal should lead to an increase in surface water run-off.

## 7. CONSULTATIONS CARRIED OUT

### Comments from interested parties

4 occupiers were notified directly of the application.

The planning officer posted a statutory notice advertising the application at the site on the 3<sup>rd</sup> March 2016

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

Comment	Where in the report this is considered
1. The scale of the development represents an intensification of use which is inappropriate in the Green Belt and contrary to policy.	6.17.
2. The increase in surface water could exacerbate flooding.	6.20.
3. It is extremely noisy.	6.12.
4. Adjacent to a Grade II listed building.	6.9.

5.	No longer there to enhance Garden Centre, attracting its own business.	6.17.
6.	Trees and Hedges adjacent to site have been removed, taking away some of the screening from the listed building.	6.9.
7.	Light industrial use unacceptable in the Green Belt.	6.2 & 6.17.
8.	Canopies and Cabins have been stated within application as only being visible once inside the car park. This is untrue as they are visible from Dedworth Road.	6.8.

### Statutory consultees

Consultee	Comment	Response
Bray Parish Council	Object as unacceptable development in the Green Belt (GB2).	Agree.
Highway Authority	No objections to the planning application.	Noted.

## 8. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B - Office/rest room elevations and plans
- Appendix C - Double canopy elevation
- Appendix D - Elevations of operational development
- Appendix E - Storage shed elevations and plans

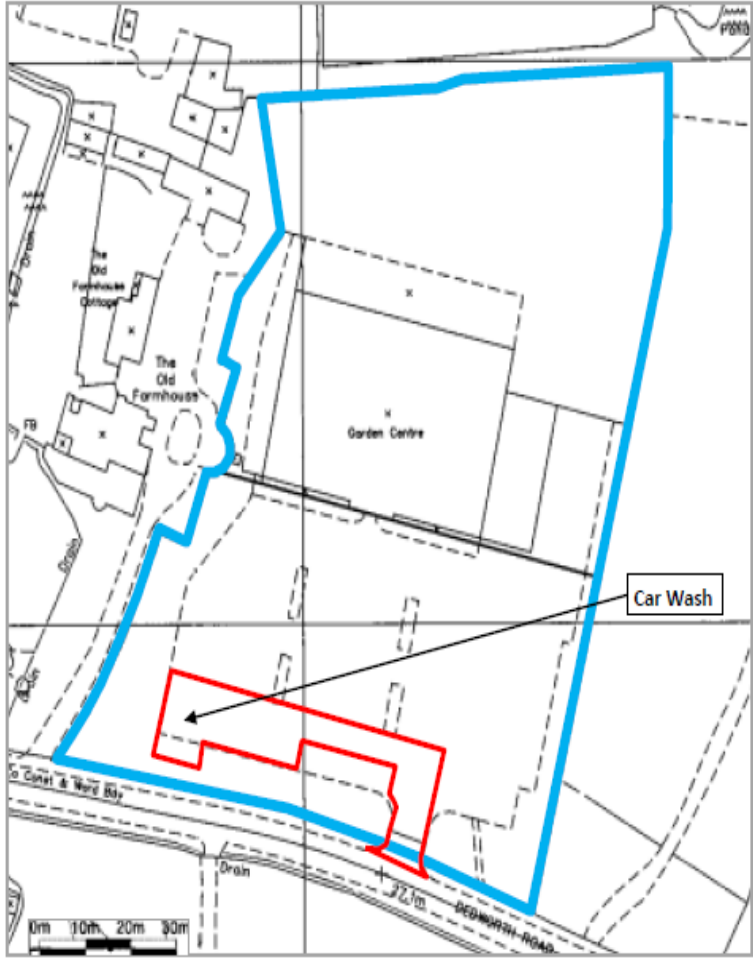
This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have not been successfully resolved.

## 9. REASON RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

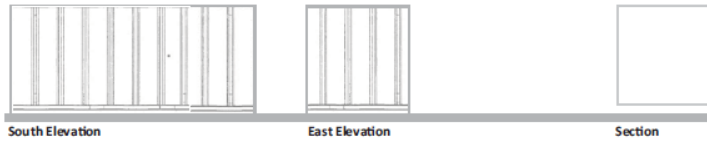
1. The proposal, specifically the double canopy and office/rest room cabin, represents inappropriate development in the Green Belt contrary to paragraphs 89 and 90 of the National Planning Policy Framework (NPPF), March 2012 and saved Policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003). Inappropriate development is by definition harmful to the Green Belt and the applicant has failed to demonstrate that any very special circumstances exist that clearly outweighs the harm caused by the reason of inappropriateness and the other harm identified in subsequent reason for refusal.
2. The proposal would have a greater impact on the openness of the Green Belt than the previous car wash development allowed on the garden centre site contrary to saved Policy GB2 (A) of the Local Plan and paragraphs 89 and 90 of the NPPF.

APPENDIX 1





APPENDIX 2



Rest Room

Building Size 6.058m x 2.438m (Externally)



Floor Plan



Roof Plan



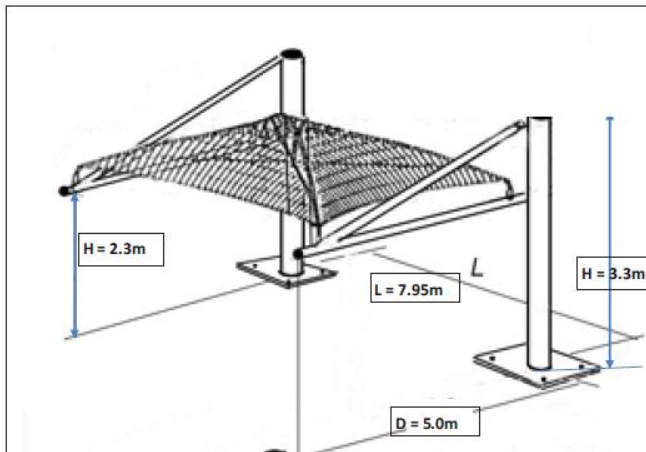
Office



TITLE: Rest/Office Area Cabin	SCALE: 1:100 @ A4	DATE: 15 Feb 2016
PROJECT: Wyevale - Windsor Garden Centre	DRAWING NO: 333/15/04	



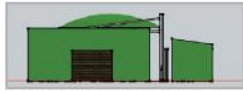
APPENDIX 3



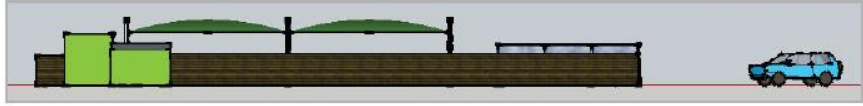
TITLE: Canopy Details	SCALE: n.t.s.	DATE: 15 Feb 2016
PROJECT: Wyevale - Windsor Garden Centre	DRAWING NO: 333/15/06	



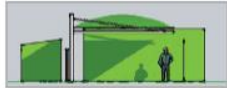
APPENDIX 4



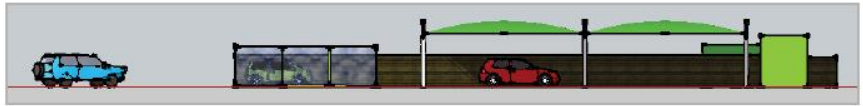
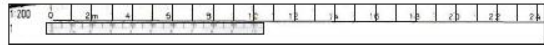
View from West:



View from South:



View from East



View from North

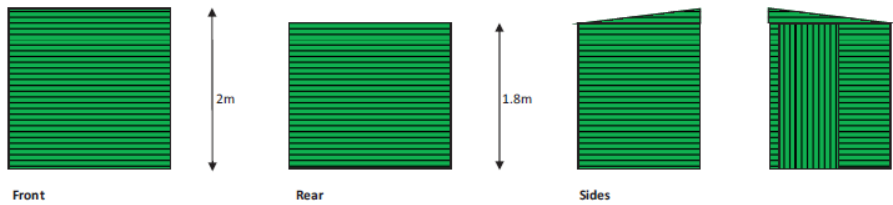
Way In

Way Out

TITLE: 2D Elevations	SCALE: 1:200 @ A4	DATE: 15 Feb 2016
PROJECT: Wyevale - Windsor Garden Centre	DRAWING NO: 333/15/07a	

SEA

APPENDIX 5



Front

Rear

Sides

2m

1.8m

1.5m

Floor & Roof Plan



TITLE: Storage Cabin	SCALE: 1:50 @ A4	DATE: 15 Feb 2016
PROJECT: Wyevale - Windsor Garden Centre	DRAWING NO: 333/15/10	

SEA

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

17 August 2016

Item: 2

<b>Application No.:</b>	16/01428/FULL
<b>Location:</b>	Eton Thameside 15 Brocas Street Eton Windsor
<b>Proposal:</b>	2 No. new mechanically operated time locked gates to the passageway on the footpath designated 'FP51', railings and 2 No. bulkhead lights.
<b>Applicant:</b>	Eton Thameside Management Co Ltd
<b>Agent:</b>	Mrs Jessica Stileman
<b>Parish/Ward:</b>	Eton Town Council
<b>If you have a question about this report, please contact:</b> Vivienne McDowell on 01628 796578 or at <a href="mailto:vivienne.mcdowell@rbwm.gov.uk">vivienne.mcdowell@rbwm.gov.uk</a>	

### 1. SUMMARY

- 1.1 The proposal is to provide gates on both ends (Brocas Street and Riverside) of the covered passageway along Public Footpath 51, in order to prevent public access by closing and locking the gates daily between the hours of 10pm and 5am. Two new bulk head lights are also proposed in the passageway. It is considered that the proposal is acceptable.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- The Borough Planning Manager and Lead Member consider it appropriate that the Panel determines the application.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site lies on the south side of Brocas Street and on the northern side of the river Thames. The site is within the Conservation Area.
- 3.2 This is predominantly a residential area and there is a public house (Waterman's Arms) on the opposite side of Brocas Street.

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

Ref.	Description	Decision and Date
11/02769/FULL	Demolition of existing buildings, with the exception of River House and retention of the North wall of Winters and redevelopment of Eton College Boathouse to provide a boathouse and 13 residential dwelling units with associated parking, landscaping and ancillary works including a raised walkway.	Approved 5/10/2011.
11/02770/CAC	Demolition of existing unlisted buildings in a Conservation Area, with the exception of River House and the North wall of Winters.	Approved 9/2/2012.
12/01485/VAR	Demolition of existing buildings, with the exception of River House and retention of the north wall of Winters and redevelopment of Eton College Boathouse to provide a boathouse and 13 residential dwelling units with associated parking, landscaping and ancillary works including a raised walkway as approved under planning permission	Approved 19/7/2012.

	11/02769/FULL without complying with conditions 2 (highways works) and 22 (flood risk measures) so that both conditions have the following wording inserted (or such other drawings as may have been agreed in writing by the Local Planning Authority) and so that drawing 18850/013 of condition 2 is substituted by drawing 18850/019A.	
12/02607/VAR	Demolition of existing buildings, with the exception of River House and retention of the north wall of Winters and redevelopment of Eton College Boathouse to provide a boathouse and 13 residential dwelling units with associated parking, landscaping and ancillary works including a raised walkway.	Approved 23/11/2012.
12/03161/FULL	The temporary erection of a car park with fencing and gates and a boat store with associated fencing.	Approved 2/1/2013.
13/00813/VAR	Demolition of existing buildings, with the exception of River House and retention of the North wall of Winters and redevelopment of Eton College Boathouse to provide a boathouse and 13 residential dwelling units with associated parking, landscaping and ancillary works including a raised walkway (as permitted under 11/02769 and subsequently varied under 12/01485) to substitute approved drawing number 1213/228 with revised number 1213/228a and add a condition listing the approved drawings.	Approved 20/6/2013.
15/02813/FULL	New railings and gates on the south side boundary.	Withdrawn Dec 2015.
16/00533/FULL	New railings and gates on the south side boundary.	Withdrawn April 2016.

- 4.1 This application proposes 2 No. new mechanically operated time locked gates at both ends of the passageway on the footpath designated 'FP51', railings and 2 No. bulkhead lights in the ceiling of the passageway.

## 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections Paragraph 17 (Core Principles), Section 7 (Requiring good design), Section 12 (Conserving and enhancing the historic environment), Section 10 (Flooding).

### Royal Borough Local Plan

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

Within settlement area	Conservation Area	Highways and Parking
DG1	CA2	P4, T5

### Supplementary planning documents

- 5.3 Supplementary planning documents adopted by the Council relevant to the proposal are:
- Sustainable Design and Construction
  - Planning for an Ageing Population

More information on these documents can be found at:  
[https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning)

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

5.4 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment - view at:
- RBWM Parking Strategy - view at:

More information on these documents can be found at:  
[https://www3.rbwm.gov.uk/info/200414/local\\_development\\_framework/494/supplementary\\_planning](https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning)

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i Whether the principle of gating the footpath is acceptable
- ii Appearance of the gates in the conservation area;
- iii Flooding considerations

### **Whether the principle of gating the footpath is acceptable**

- 6.2 Planning application 11/02769/FULL for the redevelopment of the site to provide 13 residential units was approved on 9 February 2012. Part of the proposal included the provision of Public Square and public access to the river from Brocas Street. Formerly, there was no public access along the riverside in this location, with a gated access to the site (vehicular and pedestrian) from Brocas Street for boat transport.
- 6.3 The provision of public access to the river was put forward, and accepted through the granting of planning permission, as one of the public community benefits of the planning application 11/02769/FULL.
- 6.4 The passageway from Brocas Street to the river frontage is now part of Public Footpath 51 which runs from Brocas Meadow along the river frontage of Eton Thameside, and then through the covered passageway linking to Brocas Street.
- 6.5 The proposal is that the gates would restrict public access to the passageway section of Public Footpath 51 between the hours of 10pm and 5am. Nevertheless, public access to the riverside section of the footpath would remain available 24 hours per day from Brocas Meadow.
- 6.6 Conditions 2 and 10 on permission 11/02769/FULL are relevant to the provision and maintenance of the public access (passageway) to the river. Condition 2 provided for the access to be constructed and condition 10 which prevents any restriction through erection of a means of enclosure.
- 6.7 Condition 2 states: No part of the development shall be occupied or used until the Highway Works in Brocas Street and the passageway leading to The Brocas and landscaping and provision of the riverside walkway as set out on plan 1213/242a and the details in the Transport Statement including plans 18850/013 and 18550/007 have been provided in accordance with the drawings. Reason: In the interests of highway safety,
- 6.8 Condition 10 states: Irrespective of the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no fence, gate, wall or other means of enclosure shall be erected on the site without planning permission having first been obtained from the Local Planning Authority.

Reason: To ensure the location, form, design and materials are appropriate for the character and appearance of the area.

- 6.9 The passageway has been subject to a potential alcohol-related antisocial behaviour Public Space Protection Order (PSPO) Eton Brocas and Footpath 51 (FP 51). In summary the effect of this Order includes the restriction in the public right of way over the Restricted Area (passageway) between the hours of 22:00 and 05:00 daily. At all other times the public right of way shall not be obstructed and gates the gates erected shall be locked in the open position.
- 6.10 The PSPO for Footpath 51 was approved at the Public Space Protection Order Panel (formerly know as the Alley Gating Panel) on 23/3/2016 and it is understood that the PSPO is currently ready for sealing. The Principal Rights of Way Officer has advised that the sealing and 'coming into effect' of the Order has been deferred until after this current planning application for gates - 16/01428/FULL, has been determined. The PSPO would remain in force for a statutory period of 1 year and would need to be reviewed by the Council within the next year. Depending on the outcome of the review, the PSPO may (or may not) be renewed for a further period of time (possibly 3 years).
- 6.11 By way of background, in November 2015 Thameside Management Co Ltd – the management company for the site – Council for consideration of a PSPO for partial closure of FP51. This followed a period when there had been a number of incidents in the vicinity of FP51 ranging from assaults and anti-social behaviour. Following this approach and in the light of concerns raised by Thames Valley Police the borough carried out a consultation, in relation to the PSPO.
- 6.12 The passageway is the only point of access and egress for all 13 dwellings and additional lighting at night will give residents added security. The applicant's agents state that the limited surveillance and external lighting has given rise to public loitering and anti-social behaviour and this is an ongoing concern for residents, especially at night.
- 6.13 The gates will be time-locked between 10pm and 5am daily and will have infrared sensors to ensure the safety of pedestrians during the opening and closing of the gates. Residents would have access to flats during the hours of 10pm and 5am through both the proposed gates.
- 6.14 When the gates are closed to the general public, only one gate will be able to open. The applicant's agent confirms that the openable gates at both ends will be sufficiently wide enough for disabled access.
- 6.15 For the Brocas Street entrance the entry system would consist of a keypad and fob and there would be a video intercom system fitted for all guests. The key pad would be located next to the proposed gates. The Riverside entrance, during closure times would be accessed via a stand alone key pad. Exit from the passageway will be facilitated via a fail-safe visible green exit button. There would also be an override system, consisting of a fail-safe visible green exit button to automatically open and hold back the gates even without a mains power supply (through a battery backup system). It is understood that Pinnacle Property Management will be responsible for the maintenance programme - 24hours each day.
- 6.16 It is considered that the provision of gates to restrict the use of the passageway during the hours of 10pm and 5am is acceptable and would not diminish the benefits of public access to the riverside frontage to any unacceptable extent. Furthermore, the proposed gates would improve the security for residents. It should be noted that there would still be unrestricted public access to the riverside frontage from The Brocas field on the west side of the development.
- 6.17 The proposal also includes 2 bulkhead lights within the passageway in the ceiling undercroft. This will also improve safety and security for residents and members of the public, and are considered acceptable. The Highway Officer and Rights of Way Officer have raised no objections.
- 6.18 Paragraph 17 bullet point 4 of the NPPF, advises that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings. It is considered that the additional security afforded through the gates and lights would ensure that existing and future residents have a good standard of amenity by preventing antisocial behaviour.

6.19 The PSPO contains a number of conditions regarding the operation and maintenance of the gates. A condition will be imposed on the planning permission to ensure that the gates are locked closed only between the hours of 10pm and 5am. (See conditions 2 and 3 in Section). The proposals accord with Policy R14 of the Local Plan.

**Appearance of the gates and impact on the Conservation Area.**

6.20 The proposed gates are considered to be acceptable in appearance and would preserve the character of the Conservation Area and preserve the setting of nearby listed buildings. There would be no conflict with Local Plan policies CA2 and LB2. The design and appearance would be similar to existing gates within the site. The gates would consist of steel black powder coated railings. There would be lettering (Eton Thameside) incorporated on the gates facing the river.

6.21 The application also proposes 2 bulkhead lights within the passageway in the ceiling undercroft. These are considered to have an acceptable impact on the Conservation Area. The Council’s Conservation Officer has made no comments on the application. In making this recommendation, consideration has paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, as required under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council has also had special regard to the desirability of preserving the setting of nearby listed buildings, as required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; it is considered that the proposals preserve the setting of the nearby listed buildings so the statutory test is met and also comply with Policy LB2 of the Local Plan.

**Flooding considerations**

6.22 The application site is within an area liable to flood. There is no requirement to formally consult the Environment Agency for the new gates. It is noted that the gates are not solid and would allow the free flow of water through the passageway during a time of flooding. There is no objection in terms of Policy F1. (See condition 4 – which prevents the infilling of gates and railings)

**CONSULTATIONS CARRIED OUT**

**7.0 Comments from interested parties**

16 occupiers were notified directly of the application.  
The planning officer posted a statutory notice advertising the application at the site on 11/05/2016.

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

	Comment	Where in the report this is considered
1.	Conditionally support the application for limited gating of the alleyway. Residents will return to a gated frontage because of undesirables who enter the passageway from the Brocas end. The difficulties of access to residents’ homes seems undeniable.	Noted. See paragraphs 6.2-6.19.
2.	There should be a condition that a prominent ‘public footpath’ sign should be affixed to a wall immediately adjacent to the gated entrance. A sign on a pole a few feet away does not offset the private appearance of the building.	The public footpath signage is not a planning matter.

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

Comment	Where in the
---------	--------------

		report this is considered
1.	Unacceptable to place restrictions on footpath 51 as this was part of the 'planning gain' on the original planning application. This would set a dangerous precedent.	See paragraphs 6.2-6.19.
2.	The gate at the Brocas End of footpath 51 should either be removed if illegal, or any means of locking it removed.	This gate has been removed.
3.	The opening and closure times of the gate should be regularly and carefully monitored.	See paragraphs 6.2-6.19.
4.	No objection to the bulk head lights.	Noted.

### Statutory Consultees

Consultee	Comment	Where in the report this is considered
Council's Highway Officer	No objection. The gates will open inwards away from the adopted highway. Therefore there will be no highway objections subject to a suitably worded condition to reinforce the timing of the closure.	See paragraph 6.17 and Condition 2 in Section 9 below.
Council's Rights of Way Officer	No objection.	See paragraph 6.17.
Conservation Officer	No comments.	See paragraph 6.21.

### Other Consultees

Consultee	Comment	Where in the report this is considered
Windsor and Eton Society	In the light of the Right of Way Officer's no objection, no objection is raised. However would like to put on record unease at this method of solving a problem which could have been anticipated and designed out an earlier stage. Blocking a Footpath even overnight, is a serious matter and should not be thought of as a convenient way to deal with anti-social behaviour.  Also note the comments of East Berkshire Ramblers, that if planning permission is granted it should explicitly restrict hours to 22:00 and 05:00 hours as specified on the planning application and that a mechanism should be agreed to monitor the hours of closure to ensure the gates are operated exactly and the hours are not exceeded.	See main report paras 6.2-6.19.
East Berkshire Ramblers	Feel that no restrictions at all should be placed on FP51 in order to maintain public access at all times to this footpath that was part of the 'planning gain' for this development.  If permission is granted it should explicitly restrict the hours of closure to those agreed by the Gating Panel at its meeting on 23/3/2016 – i.e. between 22pm and 5am.  Any planning permission should be conditional on the prior	See main report paras 6.2-6.19.  The gate on FP51 at the edge of Brocas meadow has been removed.



	<p>removal of the gates that were illegally installed at the Brocas End of FP51. This action was recommended by the Gating Panel, although they noted they had no authority themselves to require it.</p> <p>Would like to know what arrangements the applicant and the Council will put in place to monitor the opening and closing of the gates.</p>	
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## 8. APPENDICES TO THIS REPORT

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

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have been successfully resolved.

## 9. CONDITIONS IF PERMISSION IS GRANTED

1. The development hereby permitted shall be commenced within three years from the date of this permission.  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The gates as shown on the approved plans shall be locked in a closed position only between the hours of 2200 and 0500 daily and during this time shall not be open to the general public, with the exception of residents of 'Eton Thameside' and their visitors who can open and close the gates to access their apartments. Outside of the aforementioned hours the public right of way shall not be obstructed and the gates shall be locked in the open position.  
Reason To ensure that the public right of way is not obstructed beyond the approved closure times to enable access to the River Thames and in the interests of the safety and security of the residents and their visitors of 'Eton Thameside'. Relevant Policy - Local Plan R14, NPPF paragraph 17 bullet point 4.
3. In the event of a mains power failure the gates shall be controlled by a battery backup system to maintain the gate opening and closure times as set out in condition 2.  
Reason To ensure that the public right of way is not obstructed beyond the approved closure times to enable access to the River Thames and in the interests of the safety and security of the residents and their visitors of 'Eton Thameside'. Relevant Policy - Local Plan R14, NPPF paragraph 17 bullet point 4.
4. The gates and railings shall be constructed as approved with gaps between the railings. There shall be no infilling of the gates and railings.  
Reason To ensure that there is no adverse impact on the floodplain, to preserve the character and appearance of the conservation area and setting of nearby listed buildings and to maintain views to the river and Brocas Street. Relevant Policies - Local Plan F1, CA2 and LB2.
5. The materials to be used on the external surfaces of the development shall be in accordance with those specified in the application (Design and Access Statement) unless any different materials are first agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area. Relevant Policies - Local Plan DG1.

6. 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.

APPENDIX A - Eton Thameside, 15 Brocas Street, Eton 16/01428

Lewandowski Architects

NOTES

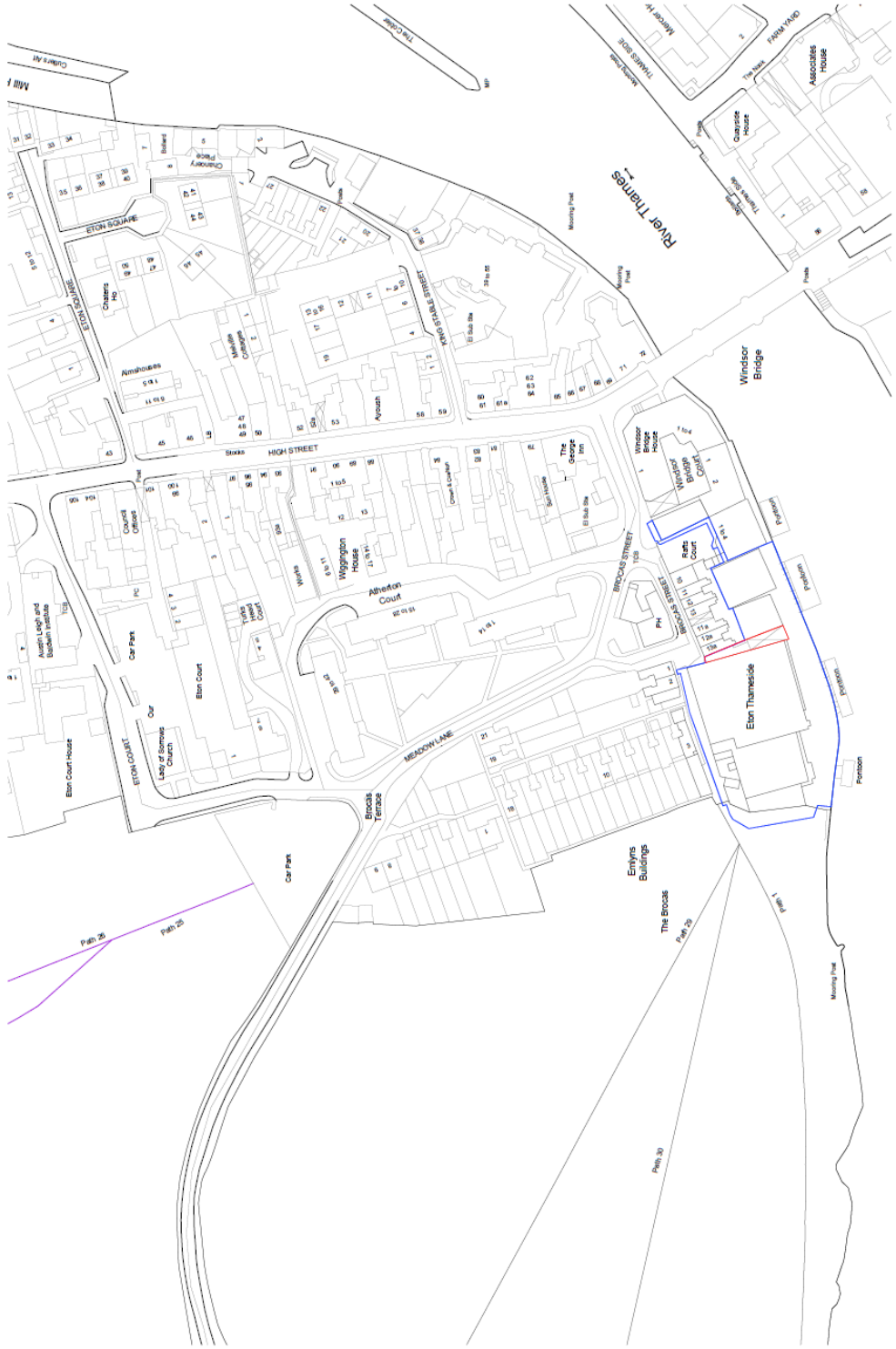
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CLIENT	ETON THAMESIDE MANAGEMENT
PROJECT	ETON THAMESIDE
DRAWING TITLE	SITE LOCATION PLAN

STATUS	FOR PLANNING	DWG No.	REV
PROJECT No.	2408	PL	G011
SCALE	1:1250@A3	DATE	16 APR 16
		DRAWN	JAS
		CHECKED	JK

Lewandowski Architects Ltd  
 107752 430700 P 01752 430421  
 www.lewandowskiarchitects.com

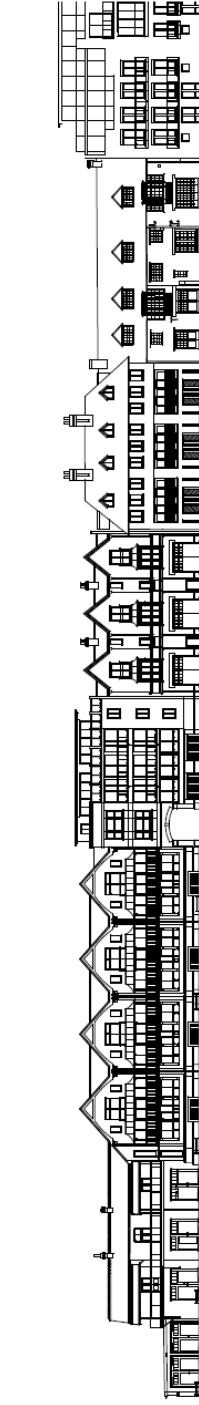


APPENDIX B - Eton Thameside, 15 Brocas Street, Eton 16/01428

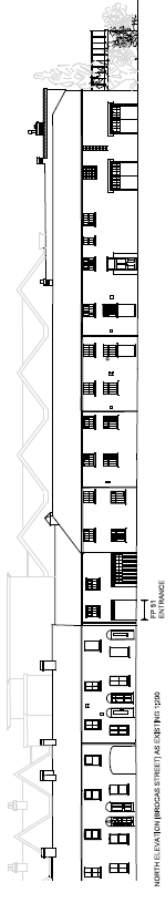
Lewandowski Architects



SITE LOCATION PLAN 11/09



SOUTH ELEVATION AS SHOWN 12/09



NORTH ELEVATION BROCAS STREET AS SHOWN 12/09



LOWER GROUND FLOOR PLAN 12/09



N

NOTES

REV	DATE	DESCRIPTION	ISSUED

CLIENT  
**ETON THAMESIDE MANAGEMENT**

PROJECT  
**ETON THAMESIDE**

DRAWING TITLE  
**EXISTING PLANS AND ELEVATIONS**

DATE  
**1:2008/01 APR 16**

DESIGNER  
**JAS**

CHECKED  
**BM**

CONTRACTOR  
**ETON THAMESIDE MANAGEMENT**

PROJECT NO.  
**2408**

PLANNING NO.  
**PL C010 00**

SCALE  
**1:200**



APPENDIX B - Eton Thameside, 15 Brocas Street, Eton 16/01428

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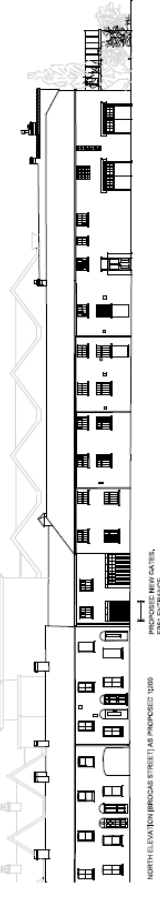
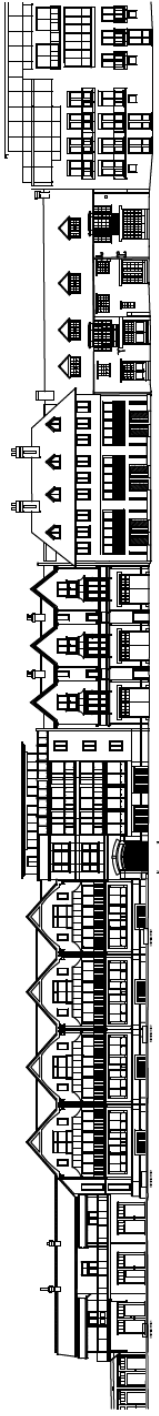


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 PROJECT: ETON THAMESIDE  
 DRAWING TITLE: PROPOSED PLANS AND ELEVATIONS

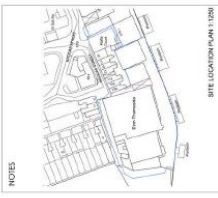
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DATE: 1.2008A1 APR 16  
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 CHECKED BY: BM  
 PROJECT MANAGER: JAS  
 PROJECT COORDINATOR: BM  
 PROJECT ADDRESS: 15 BROCAS STREET, ETON, WYOMERSLEY, LEON, LE19 1AF  
 PROJECT PHONE: 01530 410000  
 PROJECT FAX: 01530 410001  
 PROJECT EMAIL: info@lewandowskiarchitects.com  
 PROJECT WEBSITE: www.lewandowskiarchitects.com



# APPENDIX B - Eton Thameside, 15 Brocas Street, Eton 16/01428

Lewandowski Architects



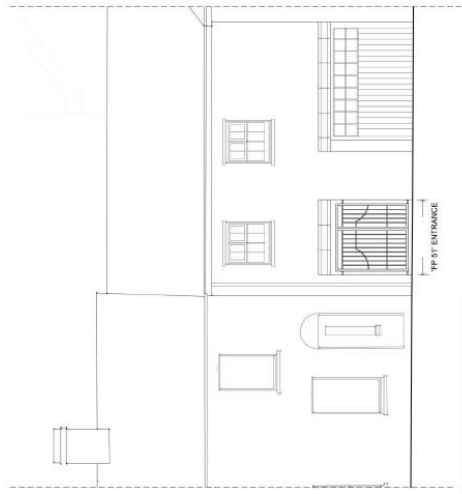
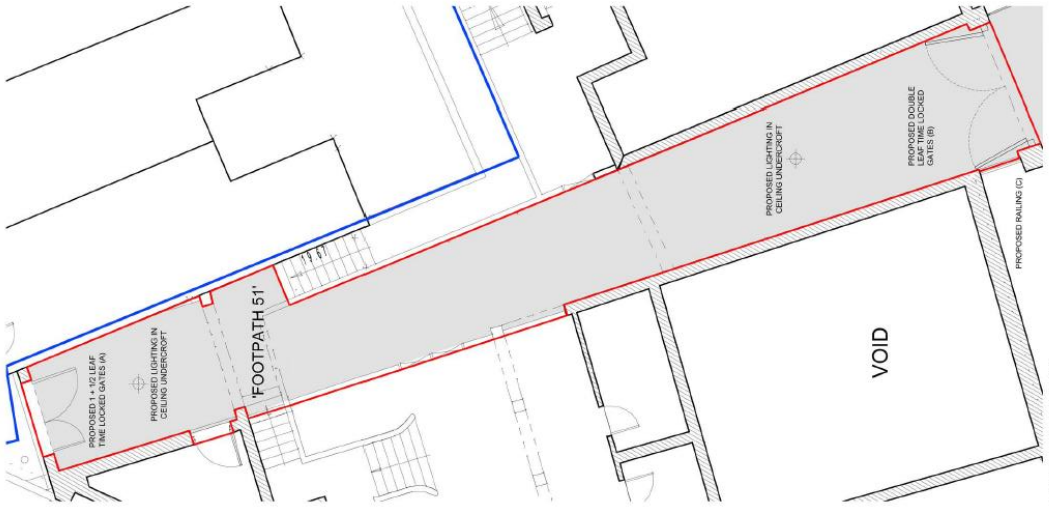
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SITE LOCATION-PA 1:1000

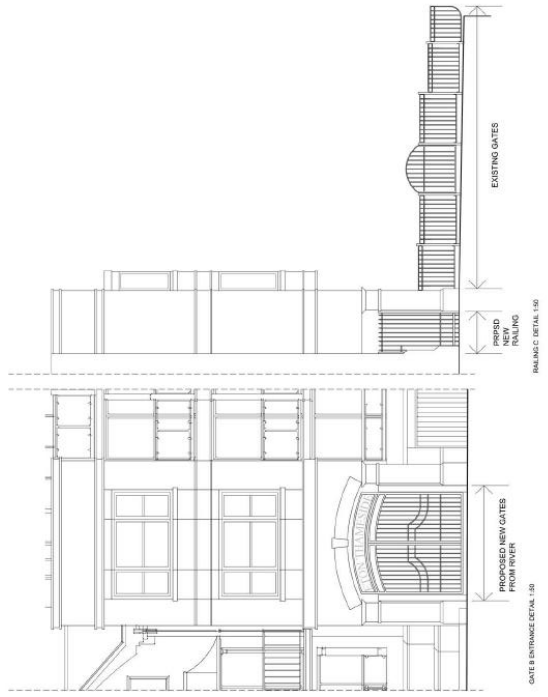
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01				

<b>CLIENT</b>		<b>DESCRIPTION</b>		<b>DRAWING</b>	
ETON THAMESIDE MANAGEMENT		ETON THAMESIDE		PROPOSED GATE & RAILING DETAILS	
<b>PROJECT</b>		<b>DRAWING TITLE</b>		<b>DATE</b>	
ETON THAMESIDE		PROPOSED GATE & RAILING DETAILS		PLANNING	
<b>DRAWING TYPE</b>		<b>DWG NO</b>		<b>REV</b>	
PL		G-201		D1	
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2408		VAR041 APR 16		JAS RM	
<b>SCALE</b>		<b>DRAWN</b>		<b>DATE</b>	
1:50		JAS		RM	



PROPOSED GATE & ENTRANCE FROM BROCAS STREET 1:50



GATE B ENTRANCE DETAIL 1:50

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

17 August 2016

Item: 3

**Application No.:** 16/01599/FULL

**Location:** 99 Vansittart Road Windsor SL4 5DD

**Proposal:** First floor rear extension with amendments to fenestration.

**Applicant:** RBWM Properties Ltd

**Agent:** Mr Gary Marler

**Parish/Ward:** Castle Without Ward

**If you have a question about this report, please contact:** Brian Benzie on 01628 796323 or at [brian.benzie@rbwm.gov.uk](mailto:brian.benzie@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 This application seeks full planning permission for a first floor rear extension with amendments to fenestration.
- 1.2 The proposed extension and changes to fenestration are considered to preserve the character and appearance of the host dwelling and the area in general.
- 1.3 The proposals would not harm the living conditions of occupiers of neighbouring properties and there would not be any harm to highway safety.

**It is recommended the Panel grants planning permission with the conditions listed in Section 9 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- The dwelling is owned by the Council and as such the Council's Constitution does not give the Borough Planning Manager delegated powers to determine the application; such decisions can only be made by the Panel.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application property is a typical Victorian, 3 bedroom, semi detached dwelling within a small row of similar dwellings on the western side of Vansittart Road, Windsor.
- 3.2 The dwelling faces Vansittart Road and has a two storey outrigger to the rear which extends part of the width of the house. A small flat roofed single storey rear extension has been added to the rear of the outrigger during the late 1970s.
- 3.3 A number of dwellings within the row have similar two storey extensions to the rear including the adjacent properties nos. 97 and 101 Vansittart Road.

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

- 4.1 Permission is sought for the erection of a first floor extension over the existing ground floor extension at the rear of the dwelling and changes to fenestration.
- 4.2 The proposed extension would be 2.9m deep aligning with the rear building line of the ground floor extension and would roughly align with the rear building line of the outriggers of the adjacent dwellings. The height of the extension would align with the existing ridge height of the outrigger and would be similar to the height of similar extensions to the other properties in the row.

### 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

**National Planning Policy Framework**

- 5.1 National Planning Policy Framework: Core planning principles (paragraph 17) and Section 7 – Requiring good design.

### **Royal Borough Local Plan**

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

	Within settlement area	High risk of flooding	Highway Safety
Local Plan	DG1, H14	F1	P4

- 5.3 Supplementary planning documents adopted by the Council relevant to the proposal are:

- Interpretation of Policy F1 – Areas liable to flooding
- RBWM Parking Strategy

More information on this document can be found at:

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

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

- 5.4 Other Strategies or publications relevant to the proposal are:

## **6. EXPLANATION OF RECOMMENDATION**

- 6.1 The key issues for consideration are:

- i Impact on an area liable to flood;
- ii Impact on character and appearance of the area;
- iii Impact on amenity on neighbouring properties;
- iv Parking and highway safety

### **Impact on area liable to flood**

- 6.2 As the property lies within an area liable to flood the proposal needs to satisfy the requirements of Policy F1 of the Windsor and Maidenhead Local Plan. Policy F1 advises that residential extensions that result in an increase in ground covered area (GCA) of up to 30sqm will not normally be regarded as conflicting with flood plain policy. Policy F1 was adopted on the 26<sup>th</sup> September 1978 and the general notes to the policy advise that the 30sqm will be taken to include all additions that required planning permission since that date.
- 6.3 In this case the extension is at first floor level and therefore will not result in an increase in the GCA of the site. The proposal is therefore considered to comply with Policy F1 of the Local Plan.

### **Impact on character and appearance of the area.**



- 6.4 The appearance of a development is a material planning consideration and the National Planning Policy Framework Section 7 (Requiring good design) advises that all development should seek to achieve a high quality of design that improves the character and quality of an area.
- 6.5 The extension is to the rear of the property and therefore will be limited in views from public vantage points. The extension is limited in scale and sympathetically designed to respect the design of the host dwelling and is similar to other extensions approved within the immediate area.
- 6.6 Taking the above into account it is considered the proposed extension would respect the character and appearance of both the host dwelling and the area in general. In addition the proposed changes to the rear ground floor fenestration (changing a rear window to folding doors) are considered to be acceptable.

#### **Impact on neighbouring properties.**

- 6.7 With regard to impact on the adjoining property no.101 Vansittart Road, the current rear projection breaches the 45 degree guideline from the rear facing ground floor window in terms of loss of light. However, taking into account the offset of the extension from the boundary and that the application property is almost due north of no.101, it is considered that the proposal would not result in a significant loss of light to that property
- 6.8 With regard to the neighbour amenity at no. 97 Vansittart Road this property has a side facing door and window at ground floor level and a side facing window at first floor level. Due to the separation distance and the ridge height of the extension, it is considered that there will be no significant loss of light to the side facing first floor window at no. 97. The ground floor side facing window at no.97 serves a kitchen which adjoins a rear extension with rear facing patio doors. These doors will be approximately in line with the rear building line of the existing and proposed extensions and therefore there will be no significant loss of light to the rear of the room.
- 6.9 Lastly in respect of the side facing windows and door referred to above, it should be noted that in planning terms it is accepted that side windows do not enjoy the same freedom from visual intrusion that normally applies to windows contained in principal front or rear elevations. Indeed, light and outlook is usually restricted to side windows, particularly in a suburban environment such as this.

#### **Parking and highway safety**

- 6.10 The proposal will not result in an increase in the number of bedrooms at the dwelling. There are no on parking spaces provided on site and none are proposed, as such there is no increase in the shortfall and therefore the resulting dwelling is considered to comply with the Borough's current parking standards.

### **7. CONSULTATIONS CARRIED OUT**

#### **Comments from interested parties**

3 immediate neighbouring properties were directly notified of the application and a non-statutory site notice was posted at the site on the 24 May 2016. No letters of support or objection have been received.

### **8. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan
- Appendix B - Existing layout and elevations.
- Appendix C - Proposed layout and elevations.

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

This recommendation is made following careful consideration of all the issues raised through the application. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have been successfully resolved.

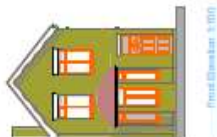
**9. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED.**

1. The development hereby permitted shall be commenced within three years from the date of this permission.  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The materials to be used on the external surfaces of the development shall match those of the original building unless first otherwise agreed 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 Policies - Local Plan DG1.
3. No window(s) shall be inserted at first floor level in the north or south facing elevations of the extension without the prior written approval of the Local Planning Authority.  
Reason: To prevent overlooking and loss of privacy to neighbouring occupiers. Relevant Policies - Local Plan H14.
4. 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.

Appendix A: Site Location Plan



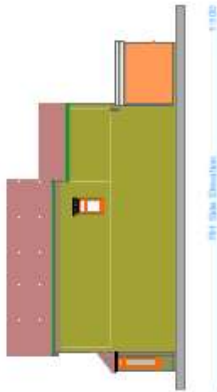
Appendix B: Existing layout and elevations.



Front Elevation 3: 1:50



Left Side Elevation: 1:50



Right Side Elevation: 1:50



Front Elevation 1: 1:50



Site Plan (Existing): 1:500



Location Plan: 1:5000

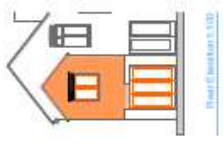


1st Floor: 1:50

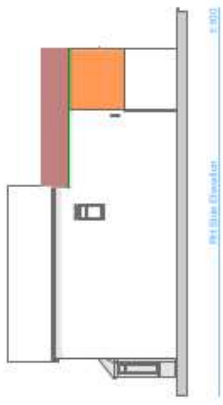


Ground Floor: 1:50

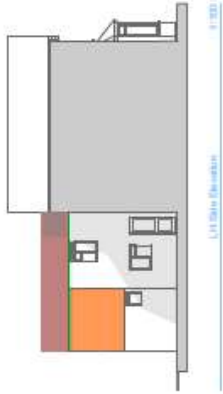
# Appendix C: Proposed layout and elevations



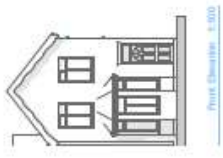
Rear Elevation 1:500



Red Side Elevation 1:500



Light Grey Side Elevation 1:500



Front Elevation 1:500



Site Plan Proposed 1:500



Ground Floor 1:50



First Floor 1:50