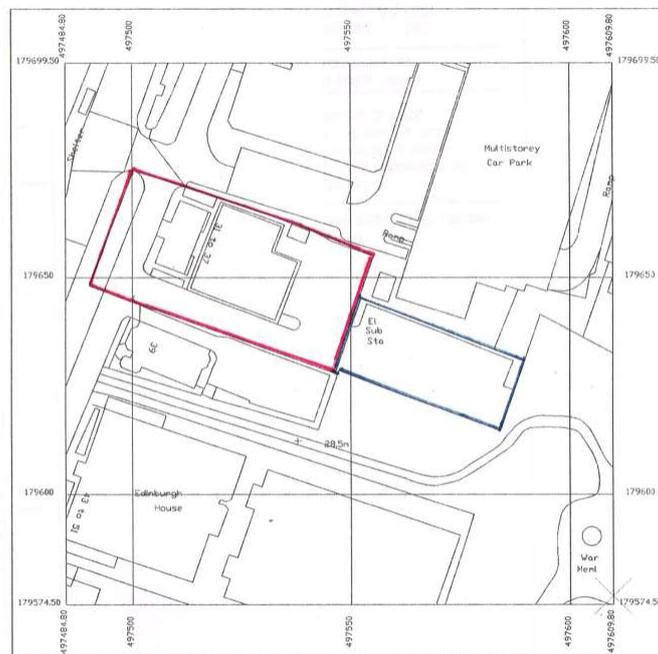


App No	P/02278/025	Applicant	Ahmed Naseem, MNK Estates (UK) LTD
		Agent	Maurice Spafford, Maurice Spafford Chartered Arch
Received	19th March 2025		11 Park Terrace, The Park, Nottingham, NG1 5DN
Officer	Daniel Terry		
Level	Committee	App Type	Full Planning
Ward	Herschel Park		

Proposal	Construction of a 4-storey upward extension to provide 14 no. additional flats, together with 8-storey extension to north-east corner with new stairwell and internal alterations to existing flats, landscaping, alterations to parking and enlargement of bin store.
Location	Westminster House, 31-37 Windsor Road, Slough, SL1 2EL

Recommendation:	<b>Refusal</b>	Extension of time: 26 June 2025
13 Week Date for Major Apps (Stats)		<b>18 June 2025</b>
21 Day Consultation Date		<b>13 May 2025</b>

**Recommendation: REFUSE planning permission**



## **PART A - SUMMARY OF RECOMMENDATION**

- 1.1 Having considered the relevant policies of the Development Plan along with all other material considerations set out below, and the representations received from consultees and the community, it is recommended the application be **REFUSED** for the following reasons:
1. The application fails to demonstrate that the proposed height would be in-keeping in the immediate context of this part of Windsor Road and would instead result in an overly tall and dominating building in the streetscene, failing to respect established building heights in the immediate vicinity. Furthermore, the proposed design of the upward extension results in staggered terraces and fenestration which also fails to respect the design and character of the existing building. This incongruity is harmful to the character of the building but also the character of the streetscene. The proposals are therefore contrary to Saved Policies EN1 and EN2 of the Slough Local Plan (2004), Core Policy 8 of the Slough Core Strategy (2008) and contrary to Paragraphs 131 and 135 of the National Planning Policy Framework (2024).
  2. By virtue of the proposed windows in the northern and southern flanks being obscured, flats with bedrooms located towards these flanks of the building would not have any material outlook and the conditions within these rooms would be oppressive. Furthermore, the relationship between the proposed communal amenity space on the top floor and apartment 41 means that the future occupiers of that unit are unlikely to be able to enjoy primary living areas, such as the living room, kitchen and master bedroom. The proposed communal area in such close proximity to apartment 41's primary living areas is not compatible. As such, the proposals are contrary to Core Policy 8 of the Core Strategy (2008), Saved Policy EN1 of the Slough Local Plan (2004) and contrary to Paragraph 135 f) of the National Planning Policy Framework (2024).
  3. In the absence of a Habitats Regulations Assessment being carried out, the application fails to demonstrate that the proposed increase in population on site would not result in adverse impacts to the Burnham Beeches Special Area of Conservation. In the absence of financial contributions being secured via Section 106 agreement, the proposals are therefore contrary to the Conservation of Habitats and Species Regulations (2019), Core Policy 9 of the Core Strategy (2008), Saved Policy EN22 of the Slough Local Plan (2004) and contrary to Paragraph 192 (b) of the National Planning Policy Framework (2024).
  4. The application fails to demonstrate that provision will be made for cycle storage which promotes the use of sustainable modes of transport. In the absence of such provision, the proposals are contrary to Saved Policy T8 of the Slough Local Plan (2004), Core Policy 7 of the Core Strategy (2008) and is contrary to Paragraph 115 of the National Planning Policy Framework (2024).
  5. There is a holding objection as insufficient information has been submitted to demonstrate that occupiers of the building, both new and existing flats, would be safe in the event of a fire with adequate escape routes and furthermore, that the facilities are in place for any fire appliances tackling such emergencies. The proposal is therefore contrary to The Building (Higher-Risk Buildings Procedures) (England) Regulations (2023).
- 1.2 The application is being brought to Committee for decision as it comprises a major development.

## **PART B - PLANNING ASSESSMENT**

### **2.0 Site Description**

#### **The Site and Surroundings**

- 2.1 The application site is located on the eastern side of Windsor Road and within the designated Slough Town Centre, as shown on the Policies Maps. It comprises a 4-storey former office building which has since been converted into a residential use (see planning history below), with Google indicating that the residential units form part of an 'apartment hotel'. The site benefits from parking for 6 vehicles to the front (west) and further parking at the rear (east) together with a bike store and bin store.
- 2.2 Directly north of the application site is the Slough Borough Council offices; to the north-east is the Herschel Road multi-storey car park and to the east (area outlined in blue) is a relatively new residential development, Kensington House. Beyond this to the east and south-east is St Mary's Church (Grade II\* Listed) together with the church grounds and graveyard. Directly south is No.39 Windsor Road, which appears to be another former office building since converted and extended into residential accommodation.
- 2.3 The area was historically commercial in nature but now comprises a mix of commercial and residential uses following the conversion of several buildings, as well as the erection of new buildings such as Kensington House to the east. To the south is a hotel (Premier Inn) and farther south is a Tesco Express located at ground floor with residential uses above. Thames Valley Police Station lies a short distance to the south-west, located along Windsor Road. There is a fair amount of variation with regard to building heights as these vary from three storeys up to 6 or 7 storeys in height (such as Premier Inn). The building to the south occupied by Tesco at ground floor level is 10 storeys in height.
- 2.4 The site does not fall within a Conservation Area, although Upton and Upton Park Conservation Area lies a short distance to the south but the CA is screened by existing high-rise buildings. The application site is however subject to a 'blanket' Tree Preservation Order (TPO).
- 2.5 For completeness, the site does not fall within Flood Zones 2 or 3; does not comprise a listed building (as above, St Mary's Church to the east is Grade II\* Listed); does not fall within an Air Quality Management Area; and does not fall within the Green Belt.

### **3.0 Planning History**

#### **Pre-application advice:**

As noted on the application form, the applicant has previously sought pre-application advice from the Council, ref: Pre-App/1559. The enquiry related to the provision of 17 additional apartments, 4 additional storeys, and an escape staircase.

This pre-application advice acknowledged that the principle of development was acceptable, given the site's location in a town centre where residential flatted development is appropriate, however raised concerns with:

- the lack of housing mix;
- the height of the development, noting that the building would be out of character and taller than Observatory House;

- the lack of provision for servicing arrangements for delivery and service vehicles;
- concerns with an overbearing impact on Arbor Hill House to the south;
- the lack of a sunlight/daylight assessment;
- the lack of communal amenity space;
- a lack of information in relation to Section 106 matters which could include affordable housing, education, open space, electrical vehicle car club;
- lack of information in relation to surface water drainage; and
- the need for a Habitat Regulations Assessment.

A number of the above matters have not been addressed in this formal submission as set out below in this report. As only 14 additional units are proposed, the Section 106 obligations do not apply (these apply to schemes of 15 or more units).

#### Relevant Site History:

3.1 With reference to relevant planning applications, the following applications below are of significance:

- P/02278/023 - Retention of a two storey temporary site office building – Refused 12-Dec-2018
- P/02278/021 - Variation of condition 2 of planning permission P/02278/018 dated 29-06-2016 to change the height and lift shaft – Approved 29-Jan-2018
- P/02278/018 - Construction of a 5 storey building to provide 17 no. flats on land to the rear of 31-37 Windsor Road together with 6 no. car parking spaces – Approved 29-Sep-2016
- F/02278/017 - Prior approval for conversion of existing building (Class B1(a) offices) to residential accommodation (Class C3) – Prior approval not required 06-Aug-2013
- P/02278/009 - Formation of car parking area – Approved 26-Jan-1983
- P/02278/008 - Erection 1862sqms of offices – Approved 26-Jan-1983

## **4.0 Consultation**

### Neighbour Notification

4.1 In accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), a number of site notices were displayed around the site on 02/04/2025 and again on 24/04/2025. The application was advertised in the 04/04/2025 edition of The Slough Express for the following reasons:

The proposals constitute a Major Development  
The proposals may affect the setting of Grade II Listed Buildings

4.2 No comments have been received from members of the public.

## Consultees

### **BEAMS [Council's Heritage Advisor]**

- 4.3 The application proposes a 4-storey upwards extension to Westminster House to provide further residential accommodation; a rear extension is also proposed.
- 4.4 The application site lies on the east side of Windsor Road in Slough town centre. Westminster House is a 4-storey late 20th century former office building of red brick construction with dark framed casement windows. To the north lies Observatory House, to the south is Arbor Hill House and to the east is Kensington House – a 4-storey building recently built on land belonging to Westminster House. To the north-east is the Herschel Street multi-storey car park.
- 4.5 The grade II\* listed Church of St Mary, a fine Victorian church and local landmark due to its tall spire, sits within a verdant churchyard to the east of the application site. A War Memorial (grade II listed) lies to the west of the church and the churchyard boundary walls are also Grade II listed. The setting of the church and churchyard has been altered and encroached upon through the construction, and extension, of office and residential buildings to the north, west and south-west of the church however the spire of St Mary's Church can still be seen in views from the gaps between buildings on Windsor Road.
- 4.6 A Heritage Statement for a previous scheme on the Westminster House site has been submitted with the application however it dates to 2015, so is 10 years old, and does not assess the current scheme. The requirements of NPPF paragraph 207 have not been fully met.
- 4.7 A TVIA has also been submitted but unfortunately this does not assess the site in views from the churchyard to the west.
- 4.8 The proposed upwards extension of Westminster House will be carried out in materials to match, with the two upper floors set back from the front elevation with glass balconies. The resulting building will be as tall, or taller than Observatory House and have a far greater visual presence within the Windsor Road street scene.
- 4.9 In terms of how visible the extensions to Westminster House will be when viewed from the churchyard and within the setting of St Mary's Church, unfortunately the application submission does not address this. From an assessment of the site visit photos provided and the mapping, BEAMS are of the view that Westminster House is not within the immediate setting of St Mary's Church due to the position of the Herschel Street car park and the recently constructed 4-storey Kensington House which abuts the churchyard boundary. The rear of Westminster House can be seen from the churchyard and wider setting of the church but Kensington House is now more visible. Westminster House may be more visible in winter, during times of less tree cover / leaf.
- 4.10 BEAMS considers that the further increase in building height / form to the west of the church and churchyard will, cumulatively, further detract from the wider setting of St Mary's Church, harming its significance. However, due to the distance between the site and the church, and the position of intervening development any impact is considered to be at the lower end of 'less than substantial'. NPPF paragraph 215 would be engaged in the decision-making process.

## HSE (Health and Safety Executive) Gateway One

- 4.11 The above planning application relates to an existing 4-storey building containing residential accommodation.
- 4.12 It is understood that the planning application proposes a 4-storey upward extension to create additional residential accommodation and a communal roof garden (7th floor), creating a relevant building of 8-storeys (no basement level), with an approximate upper-most floor height of 22m.
- 4.13 The planning application also proposes an outward extension of the ground to 3rd floors to accommodate the installation of a second means of escape staircase and to Health and Safety Executive extend the existing residential apartments, including internal alterations, landscaping and parking alterations and the enlargement of the bin store.
- 4.14 It is understood that the building contains residential accommodation only and that the associated ancillary areas (bin store, bike storage and car parking) is located separately within the curtilage of the building.
- 4.15 The building is proposed to be served by two staircases. However, no information has been provided in the fire statement to confirm that a firefighting stair forming part of a firefighting shaft (including a firefighting lift and dry riser main), is provided.
- 4.16 It is noted that the residential accommodation located on the upper floor levels (4th to 7th) have access to both staircases. However, the ground to 3rd floors are only served by a single staircase.
- 4.17 Section 6 of the fire statement confirms that the proposed development (building extensions) has been designed using Approved Document B volume 1 (ADBv1). HSE has assessed the application accordingly.
- 4.18 Following a review of the information within this application, HSE has concerns relating to the lack of fire safety information within the fire statement.
- 4.19 There is currently insufficient fire safety information for HSE to make an assessment of the proposed development. The fire statement on the planning register contains no fire safety information. Accordingly, HSE requests fire safety information including, but not necessarily limited to, the following:
- Adopted fire safety design standard
  - Means of escape
  - Sprinkler systems
  - External fire spread
  - Access and facilities for the fire service
- 4.20 It should be considered that consultation with a suitably qualified Fire Safety Engineer and the local Fire Authority may be necessary.
- 4.21 The following information does not contribute to HSE's substantive response and should not be used for the purposes of decision making by the local planning authority.
- 4.22 Section 7 of the fire statement states:

“A structural engineer will be required to design any necessary underpinning and/or strengthening required”.

Section 4 of the Design and Access Statement states:

“We will consult with structural engineers how best to construct the new upper parts to impose the least possible loading on the existing foundations so as to keep any additional underpinning to the minimum”.

- 4.23 No information has been provided in this planning application regarding the existing building structure to ensure the required levels of fire-resistance and compartmentation are achieved, in support of the design proposal.
- 4.24 Consideration should be given to the risk of internal fire spread within voids and cavities; the provision of fire-resisting compartmentation; and the suitability of design guides adopted. If the condition and performance of the current compartmentation is deemed unsatisfactory, consideration of the following may also be necessary;
- Firestopping of the voids between compartments,
  - Structural fire protection,
  - Consideration of a QDR process to support development of the fire strategy taking into account the structural requirements of the building.
- 4.25 Design changes to provide suitable compartmentation and fire-resistance, where necessary, are likely to affect land use planning considerations such as the layout and appearance of the development.
- 4.26 Section 6 of the fire statement identifies that the external wall system will achieve European classification of A2-s1,d0 or better. However, no information has been provided as part of the planning application to corroborate this. Furthermore, section 6 of the Design and Access Statement states:
- “We would wish to continue with the coloured panels between the brick corners...”
- However, no information relating to the ‘coloured panels’ has been provided within the planning application.
- 4.27 Given the proposed extension, to increase the number of dwellings, where the existing walls potentially contain materials with a fire performance classification ‘worse than A2-s1,d0’, HSE questions how regulatory requirements relating to fire spread over external walls will be complied with.
- 4.28 No information has been provided in this planning application regarding the existing external walls to ensure the required classification is achieved, in support of the design proposal.
- 4.29 HSE highlights the requirements of Building Regulations relating to material changes of use of a building, particularly the requirements relating to buildings becoming relevant buildings where previously they were not. It is understood that the proposed development, being an increase in the number of dwellings, would be within the definition of a material change of use.
- 4.30 Confirmation that the external wall system will adequately resist the spread of fire over the walls and from one building to another is required. It should be considered that any

subsequent design changes to address non-compliant external wall materials will affect land use planning considerations such as the appearance of the development.

- 4.31 Section 6 of the fire statement confirms that the building does not have automatic suppression system installation (sprinkler system) throughout the building. It is also noted that the building currently operates a 'simultaneous' evacuation policy. No information has been provided as part of this application confirming if accessible housing is provided.
- 4.32 HSE advises that a review of the fire risk assessment be carried out and it will be for the applicant to demonstrate compliance at later regulatory stages.
- 4.33 No information has been provided in the fire statement confirming the installation of a suitable automatic fire warning system.
- 4.34 It should be noted that the Ministry of Housing, Communities and Local Government (MHCLG) has published answers to frequently asked questions, about Approved Document B. Approved Document B: Fire safety - frequently asked questions - GOV.UK ([www.gov.uk](http://www.gov.uk) )
- 4.35 Approved Document B ('ADB' 2019, incorporating 2020 and 2022 amendments) states that blocks of flats with a top storey more than 11m above ground level should be fitted with a sprinkler system throughout the building. Note: Sprinklers should be provided within the individual flats, they do not need to be provided in the common areas such as stairs, corridors or landings when these areas are fire sterile.
- 4.36 HSE advises that the above MHCLG FAQ response and guidance be considered, and a review of the fire risk assessment be carried out. This issue will also be considered at later regulatory stages.
- 4.37 It should be considered that any design changes to provide a suitable sprinkler system installation may affect land use planning considerations such as the layout of the building, where space needs to be made available to house suitable water tanks for the sprinkler system supply, and subsequently further HSE consultation may be required.
- 4.38 Section 13 of the fire statement states: "A fire hydrant is located just outside the property on Kingston Crescent. The status and performance of this hydrant will be verified with the local fire authority".
- 4.39 No information has been provided that confirms the existing hydrant facilities are functional/useable. Without confirmation that there is a suitable water supply and that the existing hydrants are useable, the development might be relying on a disused water main or faulty hydrant. Resolving this issue may affect land use planning considerations such as the landscaping around the development, should additional hydrant installations be required. It will be for the applicant to demonstrate compliance at later regulatory stages.
- 4.40 HSE advises that all higher risk buildings are now required to be registered with the Building Safety Regulator (BSR). Further information can be found at Applying to register a high-rise residential building - GOV.UK ([www.gov.uk](http://www.gov.uk) ). From April 2024 the BSR started the process of inviting accountable persons to submit a safety case for their registered buildings.

- 4.41 It will be for the 'Accountable Person' (AP) or 'Principal Accountable Person' (PAP) to submit a safety case to demonstrate how the building's safety risks are managed. This Health and Safety Executive would include the risks to the safety of people in or about a building arising from the spread of fire.

## **SBC Urban Design Consultant**

### Site layout and planning

- 4.42 Whilst the updated site layout plan seeks to provide some positive enhancements to the site, through relocation of the external bin stores to the rear, it is felt that the extension/alterations could go further in terms of improving the site.
- 4.43 Given that this is a town centre site, would the proposals look to deliver a more consolidated parking layout, redistributing parking, and bin/cycle stores to the rear of the site, allowing the development to have a more landscaped and public facing frontage. (Maybe worthwhile discussing with transport and highways whether a reduction in parking numbers could be supported).
- 4.44 Whilst additional planting to the frontage is welcomed, this seems to be quite limited in terms of the increased scale of the development and number of units accommodated on site. It is encouraged to look to improve the landscaping to the fronting of the site, for both residents of the scheme and improvement of the local street scene.
- 4.45 More significant planting, incorporating potential for formal planters may be a better solution to ensure that areas of planting survive and are durable overall. This doesn't necessarily need to be planters of sufficient height, but solutions which provide some defence to these areas of high footfall. Formalised planters would also help to discourage vehicles accessing these areas and reducing survival of planting.
- 4.46 Species and provision of a high-quality approach to soft landscaping will be critical to improving this stretch of Windsor Road, and further details should be requested at this stage as part of any revisions.
- 4.47 Similarly, it is suggested to review the condition of the main entrance to the development, is this capable of being upgraded to both in terms of accessibility and providing a stronger sense of activation to the street. (Is there also an opportunity for external freestanding post boxes be resituated internally as part of the alteration of the site).

### Internal layout

- 4.48 Considering the internal layout of the site, just two key comments.
- 4.49 Accessible units – its noted that the site plan illustrates a 'disabled space' to front parking court, however the current building entrance doesn't appear to have any access for wheelchairs, through provision of an access ramp.
- 4.50 Would it be better to reconfigure of the main access to introduce accessible access. Alternatively, if this isn't achievable could the rear access provide a better solution, turning apartment 2 into an accessible unit, with a dedicated access from the rear parking court, (and providing an accessible parking bay in this location).

- 4.51 At upper floors, several units feature habitable room windows featuring obscure glazed windows, (whilst it is recognised that there are limited interface distances north and south, to adjacent developments, this is not an acceptable layout and would suggest that the provision of alternative fenestration details should be considered.

#### Scale and massing

- 4.52 The proposed extensions seem appropriate in terms of their scale, in the context of Windsor Road. Particularly, given the scale of Observatory House and the Premier Inn site. Recent development of the Solitaire Suites would help to alleviate impacts upon the setting of St Mary's Church.
- 4.53 Furthermore, I note that the applicant has submitted a Townscape assessment, given the set-back nature of the proposed development and other taller buildings in the surrounding context, it is not considered that the development would have any adverse townscape implications.
- 4.54 Notwithstanding this comfort around the general scale of the proposals in terms of massing, the architectural approach needs considerable refinement to make the scheme acceptable.

#### Architectural quality

- 4.55 Given the relatively modest contribution of the current building to the street scene there is a real opportunity to use any extension to improve the appearance and overall architecture of the development.
- 4.56 Reviewing the submitted drawings, the current approach appears poorly resolved in this regard, the detailing of the upper floors, introducing external terraces and varied setbacks appears confused and should be reviewed.
- 4.57 It is suggested that the crown of the building, should be reviewed and amended to introduce a single set-back upper floor and a proper parapet to the main form of the building.
- 4.58 It is suggested that instead of installing render detailing to the facing elevations of the building, the developer should instead look to continue to the brickwork detailing, as existing, and look to find a complementary choice of matching brick, for the extension levels. If the crown of the building is detailed in light-weight alternative detailing and materials this would form a much stronger intervention.
- 4.59 Furthermore, if the details and materials used in the crown of the building are used to modify and update the building entrance, this would have a far more positive impact to the building overall. Coupled with the landscaping improvements suggested above, these changes would improve the building when viewed in surrounding townscape views and along the prominent frontage of Windsor Road.

### **SBC Environmental Air Quality and Noise**

#### Air Quality Comments

- 4.60 Due to the lack of additional parking provision, this development is considered minor in regard to air quality impact in line with the Low Emission Strategy technical report. As the building is set back from the road, and there is no additional parking provision,

it is expected that the development will not expose new receptors to existing poor air quality, nor will it contribute to a worsening of air quality, provided that the following mitigation is applied:

#### Mitigation Requirements

- As specified within the Transport Statement, each car parking space will have access to electric vehicle re-charging infrastructure. This should be provided in line with table 7 of the Low Emission Strategy Technical Report.
- A Construction Environmental Management Plan (CEMP) shall be produced and submitted to SBC for approval prior to commencement of works
- The CEMP shall include non-road mobile machinery (NRMM) controls in line with table 10 of the LES Technical Report.
- All construction vehicles shall meet a minimum Euro 6/VI Emission Standard.
- All heating systems shall meet the emission standards laid out in table 7 of the LES Technical Report.
- The Travel Plan shall be monitored and include details of the promotion of sustainable travel, including electric vehicle use and usage of the EV charging infrastructure.

#### Environmental Noise Comments

- 4.61 An environmental noise assessment has been prepared by ES Acoustics in support of this application, dated 25th March 2025.
- 4.62 The assessment is informed by a noise survey undertaken from 10:45 on Monday 4th March 2024, to 10:45 on Tuesday 5th March 2024, with monitoring locations on the eastern and western facades. Road traffic on Windsor Road was determined at the dominant noise source on site.
- 4.63 As expected, the survey results indicate that noise levels are highest at the front of the building (western façade), with average noise levels of 65dB LAeq16h and 58dB LAeq8h during the day and night, respectively. By comparison, noise levels at the rear are 57dB LAeq16h and 49dB LAeq8h during the day and night, respectively. This corresponds with a medium-low risk noise category in line with ProPG.
- 4.64 To mitigate against these external noise levels, a glazing and ventilation scheme is proposed, using a bedroom on the western façade and the eastern façade as worked examples. The required sound reduction performance for each façade is calculated as 33dB, 30dB and 27dB for the west, north/south, and eastern facades. Some example configurations are provided in Table 12. This glazing arrangement is considered sufficient to mitigate external noise levels, however the report does not confirm the glazing that will be used in the final design. As such, full details of the proposed glazing to be installed should be provided via condition, which demonstrates compliance with this noise reduction requirement specified in the report.
- 4.65 The proposed ventilation strategy consists of trickle ventilators with acoustic performance of 38dB Dnew, 36dB Dnew and 31dB Dnew for the west, north/south, and eastern facades, respectively. As above, full details of the ventilation to be installed, including demonstrated compliance with the acoustic performance requirements specified within the report, will be required via condition.
- 4.66 In regards to external amenity, noise levels on the western façade are approximately 10dB above the recommended noise levels within BS8233. The drawings appear to show a short screen on the perimeter of the external balcony areas, which is likely to

provide some noise reduction, however the resultant noise level has not been confirmed. It is recommended that further mitigation is applied to reduce external noise levels to as close to the upper limit (55db LAeq16h) as practicable, for example through taller screening, unless it can be demonstrated that the proposed shorter screening can provide this. This will be required via condition.

### **Lead Local Flood Authority Consultant**

4.67 No comments received.

### **Royal Berkshire Fire and Rescue Service**

4.68 At this stage there is no duty placed upon the Fire Authority under the [Town and Country Planning Act] to make any comment relative to this application. The proposals have, however, been cursorily examined and inasmuch as would affect the planning application and the following items, in general, will need to be incorporated in order to meet the basic principles of means of escape in case of fire the building will have to comply with the Fire safety (England) Regulations 2022 and the Regulatory Reform fire safety Order 2005. Any structural fire precautions and all means of escape provision will have to satisfy Building Regulation requirement.

### Building Control Process for Higher-Risk Buildings

4.69 The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 introduces a new building control process for building work creating or in higher-risk buildings, which is to be overseen by the Building Safety Regulator (“the Regulator”). The new building control process will apply to multi-occupied residential buildings, hospitals and care homes that are at least 18 metres in height or have at least 7 storeys. The Building Safety Act 2022 and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, set out the use criteria and how height and number of storeys are determined for the purpose of defining whether these regulations apply.

4.70 The new building control process for higher-risk buildings in England came into force on 1 October 2023. From this date the building control authority for higher-risk buildings is the Building Safety Regulator. Any new building work in-scope of the higher-risk regime can no longer be overseen by local authority or private sector building control. For exceptions to this see the section - Planning permission granted prior to 1 October 2023.

4.71 The Regulator will be the building control authority for higher-risk buildings, in particular:

- the construction of a new higher-risk building;
- building work to an existing higher-risk building;
- any work that causes a non-higher-risk building to become a higher-risk building, including material change of use; and
- any work relating to a higher-risk building that causes it to cease to be such a building.

4.72 The guidance on the definition of higher-risk building can be found here: [gov.uk/guidance/criteria-for-determining-whether-a-new-building-that-is-being-designed-and-constructed-is-a-higher-risk-building](https://www.gov.uk/guidance/criteria-for-determining-whether-a-new-building-that-is-being-designed-and-constructed-is-a-higher-risk-building)

- 4.73 Please be advised that any comments made by the Fire Authority in this letter must not be taken as formal approval that your plan/s confirm to the requirements and recommendations of current Guides or Codes of Practice for means of escape in case of fire. Please note that fire service access requirements must meet approved document B, B5 standards. The weight limits for RBFRS fire appliances are different to B5 standard. RBFRS fire appliance weights are 16t for fire appliances and 26t for aerial platform appliance.

### **SBC Local Highway Authority**

- 4.74 The LHA would require the submission of amended plans which show suitable bike storage providing 1 secure and covered cycle space for each of the existing 41 dwellings and for each of the 14 proposed dwellings. If this cannot be demonstrated, then I would recommend refusal of the application on the basis it is contrary to Policy T8 of the Slough Local Plan and is contrary to Paragraphs 115 – 117 of the NPPF.
- 4.75 The LHA would not object on the basis of parking shortfall. The site falls within the Town Centre area where 'Nil' parking provision for residential developments is accepted in principle. The provision of 18 parking spaces for 55 dwellings would see 0.32 parking spaces per dwelling i.e. 32% of dwellings would be able to own a car and 68% would need to live car free. This is not dissimilar to the level of parking permitted for other developments nearby in the town centre such as Aspire 2 and the Queensmere redevelopment. There is the potential for residents to live car free given the proximity of the train station, bus services to locations across the subregion, Enterprise Car Club opposite the site and the facilities located within walking distance.
- 4.76 The site is also surrounded by double yellow line parking restrictions with blips which denote a loading ban. Therefore, parking overspill is unlikely given that residents would be at risk of parking enforcement action undertaken by the council.

### **5.0 Description of Development**

- 5.1 The description of development, is as follows:

“Construction of a 4-storey upward extension to provide 14 no. additional flats, together with 8-storey extension to north-east corner with new stairwell and internal alterations to existing flats, landscaping, alterations to parking and enlargement of bin store.”

- 5.2 The proposal includes internal alterations but the existing 27 units occupying the ground to fourth storey would be largely unaffected. In some instances, existing bedrooms will become larger as part of the extension to the north-east corner. The drawings also indicate that one additional parking space would be created and that the existing bin store would be enlarged.
- 5.3 No retention of the existing cycle store has been shown on the drawings.
- 5.4 Within the fifth to eight storeys of the proposed extension, there will be:
- 4no x 2B, three person
  - 9no x 2B, four person
  - 1no x 5B, nine person (top floor)

Note: The Accommodation Schedule submitted is inaccurate and the above figures have been taken from the drawings submitted.

- 5.5 The top two floors of the extension incorporate external amenity space. This includes both private amenity space to individual flats as well as a communal amenity space.

## **6.0 Planning Policy**

### **Introduction**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Annex 1 to the National Planning Policy Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 6.2 The current version of the National Planning Policy Framework (NPPF) was published in December 2024. Significant weight should be attached to the policies and guidance contained within the NPPF particularly where the policies and guidance within the Development Plan are out-of-date or silent on a particular matter. Relevant paragraphs of the NPPF are outlined below. However, before doing so officers first identify the relevant policies in the Development Plan which is the starting-point of an assessment of the application consistent with the statutory test in section 38(6) as above.

### **The Development Plan**

- 6.3 The Development Plan consists of:
- The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, (December 2008)
  - Site Allocations Development Plan Document (2010)
  - The Local Plan for Slough, Adopted March 2004
  - Proposals Map (2010)

### **Supplementary Planning Documents and Guidance**

- 6.4
- National Planning Practice Guidance
  - Slough Borough Council Developer's Guide Parts 1-4
  - Nationally Described Space Standards
  - Slough Borough Council's Draft Low Emission Strategy (LES 2017-25)
  - ProPG: Planning & Noise: Professional Practice Guidance on Planning & Noise. New Residential Development. May 2017

### **Slough Local Development Framework, Core Strategy 2006 – 2026 (December 2008)**

- 6.5 The Council's adopted Spatial Vision set out in the Core Strategy is to consolidate current efforts by the Council and its partners to improve the town's environment; by 2026, Slough will have a positive image which will help to create prosperous, confident and cohesive communities.

6.6 The following key policies in the Core Strategy are relevant to the determination of the planning application.

- Core Policy 1 - Spatial Strategy
- Core Policy 3 - Housing Distribution
- Core Policy 4 - Type of Housing
- Core Policy 7 – Transport
- Core Policy 8 – Sustainability and the Environment
- Core Policy 9 – Natural and Built Environment
- Core Policy 11 – Social Cohesiveness

#### Slough Local Plan (Saved Policies 2010)

6.7 Some of the policies in the Local Plan for Slough (2004) have been “saved” for development management purposes. The following policies have to be taken into consideration.

- EN1- Standard of Design
- EN2 - Extensions
- EN3 – Landscaping
- EN5 – Design and Crime
- H14 - Amenity Space
- T2 - Parking
- T8 - Cycling Network and Facilities
- T9 - Bus Network and Facilities

#### **Other Material Considerations**

##### National Planning Policy Framework (NPPF) 2024

6.8 The National Planning Policy Framework was revised in response to the Proposed reforms to the National Planning Policy Framework and other changes to the Planning system consultation on 12 December 2024 and sets out the government’s planning policies for England and how these are expected to be applied.

This version of the National Planning Policy Framework was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024.

Chapter 2. Achieving sustainable development

Chapter 4. Decision-making

Chapter 5. Delivering a sufficient supply of homes

Chapter 6: Building a strong, competitive economy

Chapter 7. Ensuring the vitality of town centres

Chapter 8. Promoting healthy and safe communities

Chapter 9. Promoting sustainable transport

Chapter 11. Making effective use of land

Chapter 12. Achieving well-designed places

Chapter 15. Conserving and enhancing the natural environment

## Chapter 16. Conserving and enhancing the historic environment

- 6.9 Paragraph 11 of the NPPF states that decisions should apply the presumption in favour of sustainable development which means:

“For decision making this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance<sup>7</sup> provides a strong reason for refusing the development proposed; or

ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination<sup>9</sup>”

(for the footnotes highlighted, please refer to the document itself: <https://assets.publishing.service.gov.uk/media/675abd214cbda57cacd3476e/NPPF-December-2024.pdf>)

### National Planning Practice Guidance (NPPG)

- 6.10 The NPPG was first published in 2014 and is iterative web-based guidance that is designed to complement the NPPF across a range of topics.

### Fire Safety Provisions - DLUHC Guidance - Fire safety and high-rise residential buildings (from 1 August 2021)

- 6.11 The Department for Levelling Up, Homes and Communities (DLUHC) has brought in changes to the planning system whereby HSE Gateway One are a statutory consultee on specified planning applications. The DLUHC Guidance states that the changes are intended to help ensure that applicants and decision-makers consider planning issues relevant to fire safety, bringing forward thinking on fire safety matters as they relate to land use planning to the earliest possible stage in the development process and result in better schemes which fully integrate thinking on fire safety.

### The Proposed Spatial Strategy (Nov 2020)

- 6.12 Under Regulation 18, the Proposed Spatial Strategy for the Local Plan for Slough was the subject of public consultation in November 2020. This set out a vision and objectives along with proposals for what the pattern, scale and quality of development will be in Slough. The consultation document contained a revised Local Plan Vision which supports the Council’s vision for Slough as a place where people want to “work, rest, play and stay.”

## Equality Act

- 6.13 In addition, Section 149 of the Equality Act (2010) which sets a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equalities considerations are factored into the planning process at various stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. In coming to a recommendation, officers have considered the equalities impacts on protected groups in the context of the development proposals as set out in Section 7 of this report.

## Habitats Regulations Assessment of Projects, Natura 2000 and European Sites

- 6.14 Natura 2000 is the cornerstone of European nature conservation policy; it is an EU-wide network of Special Protection Areas (SPA) classified under the 1979 Birds Directive and Special Areas of Conservation (SAC) designated under the 1992 Habitats Directive.
- 6.15 Since 31st December 2020, the UK requirements for Habitat Regulations Assessments is set out in the Conservation of Habitats and Species Regulations 2017 (as amended by the Conservation of Habitats and Species Amendment (EU Exit) Regulations 2019). Together, the National Site Network of the UK comprises over 25,500 sites and safeguards the most valuable and threatened habitats and species across Europe and the UK; it represents the largest, coordinated network of protected areas in the world.
- 6.16 HRA employs the precautionary principle and Reg 102 ensures that where a project is 'likely to have a significant effect' (LSE), it can only be approved if it can be ascertained that it 'will not adversely affect the integrity of the European site'. Burnham Beeches is designated a SAC under this Directive which is located to the north of Slough.
- 6.17 The development 'project' has been screened (as part of the Habitat Regulations Assessment) and it has been identified that LSE cannot be ruled out at this stage. An Appropriate Assessment is therefore required to determine whether mitigation measures are required to ensure the project will not adversely affect the integrity of the European Site (Burnham Beeches SAC).

## Planning (Listed Buildings and Conservation Areas) Act 1990

- 6.18 Section 66 of the 1990 Act imposes a general duty on the Council as respects listed buildings in the exercise of its planning functions. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.19 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 seeks special regard to preserving or enhancing the character or appearance of a conservation area.

## **7.0 PLANNING CONSIDERATIONS**

7.1 The planning considerations for this proposal are:

- Principle for Development and Land Use
- Housing Mix and Type
- Affordable Housing
- Design and Character of the Area
- Heritage
- Impact on amenity of neighbouring occupiers
- Landscaping and Trees
- Flood Risk and Drainage
- Ecology
- Transport and Highways
- Sustainability and Energy
- Air Quality and Noise
- Fire Safety
- Making effective use of land
- Equality Considerations
- Planning Balance

### **Principle for Development and Land Use**

7.2 The application site lies within the built-up part of Slough wherein new development is generally acceptable in principle subject to consideration of detailed matters which are set out below in this report. The application site does not fall within the Green Belt and the site is already within a residential use, to which this application seeks an extension (increase in housing units) of the existing use. The proposals are acceptable in principle.

### **Housing Mix and Type**

7.3 At a local level, the development proposals for new housing on this site at this location would be broadly supported by Core Policy 1 (Spatial Strategy) of the Core Strategy. The policy requires that development should take place within the built-up area on previously developed land and that the proposals for the comprehensive regeneration of selected key locations within the Borough will also be encouraged at an appropriate scale.

7.4 Core Policy 3 (Housing Distribution) sets out the housing requirement for Slough as it was in 2008. This states that: 'A minimum of 6,250 new dwellings will be provided in Slough between 2006 and 2026.'

7.5 This minimum number has been exceeded already. But the 6,250 requirement has been superseded by the subsequently introduced requirement to use Objectively Assessed Housing Need for housing figures. This results in approximately 11,400 as a housing need figure for the Core Strategy plan period. By April 2026 it is currently estimated that there will be a 1,300 home shortfall. And current estimates based on preparation for the proposed new Local Plan indicate a 6,000 to 7,000 shortfall over a new plan period.

7.6 As a result, 11,400 is the housing target that the application should be considered against rather than the published Core Strategy target of 6,250.

- 7.7 The Local Planning Authority cannot demonstrate a Five-Year Housing Land Supply. As of April 2024, the Council had a 2.2 year supply inclusive of a 20% buffer applied as a result of the latest Housing Delivery Test. In accordance with Paragraph 11 of the National Planning Policy Framework (inc. footnote 8), the most important policies for determining the application are out-of-date. While an assessment based on the relevant development plan policies and development plan as a whole will be carried out, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (tilted in favour of housing), when assessed against the policies in the Framework taken as a whole.
- 7.8 With regard to the mix, one of the aims of National Planning Policy is to deliver a wide choice of high-quality homes and to create sustainable, inclusive and mixed communities. This is reflected in Core Strategy Policy 4. The Local Housing Needs Assessment for RBWM, Slough & South Bucks (October 2019) suggests in table 39 the following percentage mixes are needed within Slough:

	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4+ bed</b>
<b>Market</b>	5%	19%	57%	20%
<b>Affordable home ownership</b>	33%	32%	26%	10%
<b>Affordable housing (rented)</b>	44%	27%	25%	4%

- 7.9 The proposed scheme would provide 14 residential units with a range of mixes as set out in the table below:

<b>Type</b>	<b>No. of units</b>	<b>Percentage</b>
2 bed 3 person	4	29%
2 bed 4 person	9	64%
5 bed 9 person	1	7%
<b>Total</b>		<b>100%</b>

- 7.10 Given the tilted balance is engaged, the contribution towards housing would in principle attract positive weight in the planning balance. The proposal would provide 14 flats which the application form indicates would be for 'social, affordable or intermediate rent', yet there is no mention anywhere else within the submission as to whether the flats would in fact be market rent or otherwise. No draft legal agreement has been submitted in support of the application to provide any clarification in this regard.
- 7.11 In terms of the mix, the LHNA set out above does not provide a breakdown within each size (2 bed, three person or 2 bed, four person, for example). When taking the 13 proposed two beds collectively, this would not provide a particularly good mix. Incorporation of some three-bed units would have provided a better mix in accordance with Slough's actual housing need, as set out in the LHNA.
- 7.12 No explanation or supporting information has been provided to justify this proposed mix of housing and it has not been explained or demonstrated that there is a need for a 5-bed, 9 person dwelling unit in this town centre location.
- 7.13 Having regard to the mix proposed, it is considered that modest weight is attributed in the planning balance to housing mix in this instance, having regard to housing need and the fact that some 2-bed units are required within the town centre.

## **Affordable Housing**

- 7.14 Core Policy 4 (Type of Housing) also sets out the affordable housing policy in the Core Strategy. This states that:

*“All sites of 15 or more dwellings (gross) will be required to provide between 30% and 40% of the dwellings as social rented along with other forms of affordable housing.”*

- 7.15 This took account of the affordable housing target in the then draft South East Plan of 35%. It also took account of a level of need in Slough identified in the Strategic Housing Market Assessment (2007) and reflected the proportion of affordable housing that was being achieved at the time.

- 7.16 Paragraph 7.62 of the Core Strategy recognises that the proportion of affordable housing that will be sought may vary depending upon the size and nature of the site. It does not, however, contain a specific viability test within the policy.

- 7.17 NPPF para 66 states:

*“Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures.”*

- 7.18 The Council’s affordable housing guidance is contained in the ‘Developer Contributions & Affordable Housing (Section 106)’ document, dated September 2017. This requires 40% affordable housing as a ‘normal requirement’.

- 7.19 The Developer Guide notes that *“if a development, supported with a viability assessment, is agreed without being policy compliant re affordable housing policy it should be noted that the Section 106 planning obligation will include a review mechanism i.e. viability would be re-assessed at a later date”*. The Developer Guide notes *“For very large multi phased developments over many years. The review would establish if development values rise above development costs after permission is granted such that more affordable housing or an equivalent payment could be provided. Any additional affordable housing or payment justified by the review would take account of developers return for the site and be capped at the normal policy compliant level”*.

- 7.20 The application proposes 14 new units which is therefore below the 15-unit threshold under which SBC can seek affordable housing units, or financial contributions in lieu. As such, the LPA cannot reasonably seek affordable housing on this site. As set out above, the application form suggests that the units would fall within ‘social, affordable or intermediate rent’ but no such clarification has been provided, nor has it been suggested by which mechanism this would be achieved. The proposal must therefore be assessed on the basis of nil affordable housing being provided in this instance. This is a matter that would attract nil weight in the planning balance.

## **Design and Character of the Area**

- 7.21 Saved Policy EN1 requires development proposals to reflect a high standard of design and must be compatible with, and/or improve the surroundings in terms of layout, scale, height, architectural style and materials. Core Policy 1 of the Core Strategy states that the scale and density of development will be related to the site’s current or proposed accessibility, character and surroundings. Significant intensification of use

will not be allowed in locations that lack the necessary supporting infrastructure, facilities or services or where access by sustainable means of travel by public transport, cycling and walking are limited.

7.22 Core Policy 8 of the Core Strategy states that all development in the Borough shall be sustainable, of a high-quality design, improve the quality of the environment and address the impact of climate change. Policy Core Policy 8 defines High Quality Design as to:

- a) Be of a high-quality design that is practical, attractive, safe, accessible and adaptable;
- b) Respect its location and surroundings;
- c) Provide appropriate public space, amenity space and landscaping as an integral part of the design; and
- d) Be in accordance with the Spatial Strategy in terms of its height, scale, massing and architectural style.

The policy also requires that the design of all development within the existing residential areas should respect the amenities of adjoining occupiers and reflect the street scene and the local distinctiveness of the area.

7.23 The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 states that decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) 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.

7.24 In support of the application, a Townscape, Landscape and Visual Impact Assessment, dated June 2024, has been submitted. This document refers to the creation of 17 residential units and is not therefore up-to-date with regard to the current proposed

scheme. This Assessment sets out that parts of the site could not be accessed and so its contents are based on views of the site that could be attained from public areas.

7.25 Paragraph 4.11 of the TVIA opines that:

*“Our assessment indicates that the existing character is strongly influenced by the surrounding office and commercial uses and the busy Windsor Road corridor, and accordingly the localised Townscape is considered to be of **Medium Value**, the capacity for change of the type envisaged as **High** with Susceptibility to Change **Low** and overall Sensitivity, **Low**.”*

7.26 Whilst Officers concur that the wider impacts are limited, such as the ability to see the proposed development from longer distances, including areas outside of Slough, the submission is substantially lacking with regard to the more immediate context and whether the proposals are indeed in-keeping with this part of Windsor Road, not least with regard to the height. Although Appendix G of the TVIA does include building scales, streetscene elevation drawings would have assisted in demonstrating how the proposals relate to the immediate vicinity in this instance. The number of storeys is not truly reflective of height when commercial buildings are involved. For example, the SBC Offices are said to be 8-storeys in height, when there is in fact only 5 storeys with a 6 floor set back and in from the main building. The TVIA cannot be relied upon given the inaccuracy.

7.27 It is not therefore considered that sufficient detail has been provided in this instance, only relatively vague assumptions about heights based on the number of storeys. This also fails to have regard to changes in land levels where the taller buildings located to the south are generally located at lower ground levels. Drawing PL17G indicates, for example, that the proposed building would be substantially taller than No.39 (Arbor Hill House) to the south.

7.28 At a more localised level, the Council’s Urban Design Consultant has set out a number of ‘missed opportunities’ for this development, where the proposals could have incorporated positive changes in order to deliver a high-quality development. Instead, the proposals are considered to be poorly designed and fail to respect the character of the existing building.

7.29 The proposal would result in a poorly designed development and the proposals, by virtue of their height, would unduly dominate the streetscene. The proposals are therefore contrary to the Saved Policies of the Slough Local Plan, the Core Strategy and contrary to the NPPF which requires development to achieve good design.

## Heritage

7.30 Core Policy 9 sets out that new development will not be permitted unless it protects and enhances the historic environment and respects the character and distinctiveness of existing buildings, townscapes and landscapes and their local designations. This is inconsistent with the NPPF insofar as it does not provide the need for a public benefits test and a balance to be carried out in concluding on the level of harm and whether this is outweighed by the public benefits.

7.31 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 provides that in considering whether to grant permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. As a consequence, the desirability

of preservation must be given considerable importance and weight in the decision making process.

- 7.32 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 seeks special regard to preserving or enhancing the character or appearance of a conservation area.
- 7.33 The NPPF requires a consideration of the impact that Development Proposals could have on designated heritage assets. In this regard, Paragraph 207 of the NPPF places the onus on the application to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
- 7.34 Paragraph 212 of the NPPF sets out that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".
- 7.35 This makes clear that the starting point should be to conserve designated heritage assets, and Paragraph 214 states:

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

- 7.36 Paragraph 215 further states that: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.37 As set out in the Heritage Consultant (BEAMS) comments, the Heritage Impact Assessment submitted is dated October 2015. It is substantially out of date and fails to show numerous development which has since gone up in the past 10 years, not least SBC Offices to the north, and Kensington House to the east. The applicant has therefore failed to provide accurate and sufficiently detailed information in accordance with Paragraph 207 of the NPPF, which is required for Officers and their consultants to understand the setting of the Listed Building.
- 7.38 Notwithstanding this, Officers have conducted an 'on the ground' assessment of the proposals and the Heritage Consultant has provided their own views on the proposals, concluding that the development would result in 'less than substantial harm' in NPPF

terms, and that the impacts from the proposal would be at the lower end of the 'less than substantial harm' scale.

- 7.39 The spire of St Mary's Church can be seen in glimpsed views between buildings on Windsor Road. It is acknowledged that the proposed upward extension would not affect these views 'on the ground', although views of the spire may be lost in longer distance views to the west. In the absence of sufficient information from the applicant in the form of an up-to-date Heritage Assessment, Officers concur with the Heritage Consultant that the proposals would result in less than substantial harm to the setting of the Grade II\* Listed Building. This view is formed on the basis that several sites surrounding the Listed Building have been developed and this includes the new 4-storey building Kensington House which sits between the application site and the grounds of the Church. This harm must therefore be weighed against the public benefits of the scheme which is discussed in the 'planning balance' section of this report below.

### Impact on amenity of neighbouring occupiers

- 7.40 The National Planning Policy Framework requires planning decisions to ensure developments create places with a high standard of amenity for existing and future users.
- 7.41 Core Policy 8 requires new development proposals to reflect a high standard of design and to be compatible with and / or improve the surroundings in terms of the relationship to nearby properties.
- 7.42 The submitted Planning Statement refers to a Daylight/Sunlight Assessment, although it does not appear that one has been submitted. Again, Officers have had to carry out an 'on the ground' assessment, having regard to the proposals, including the increase in height, and the separation distances of neighbouring built form.



- 7.43 Measured from the drawings (above), the building is located around 11.4m away from No.39 Windsor Road to the south; around 18.7m away from Kensington House (shown

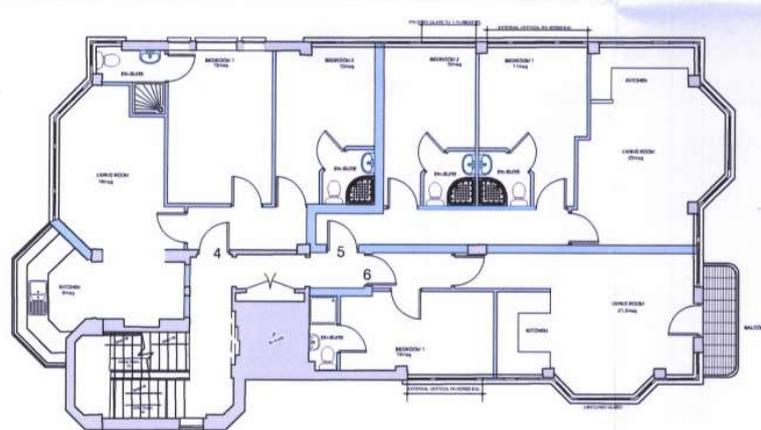
on planning permission P/02278/018) to the east and around 18.2m away from the SBC offices to the north.

- 7.44 The proposed upward extension is likely to have the most impact upon the SBC office building to the north, by virtue of the likely loss of sunlight that would occur. Again, no sunlight/daylight assessment has been submitted but an additional 4 storeys would likely have some moderate impact. Given that these offices are only occupied during the day/evening, it is not considered that there would be any undue impacts. There is a private roadway and parking area separating the two buildings.
- 7.45 To the east, it is considered that there would be some impact upon Kensington House, particularly with regard to any windows with a westerly aspect. The planning history for this building indicates that a number of units have their open plan kitchen, living and dining areas to this westerly direction:

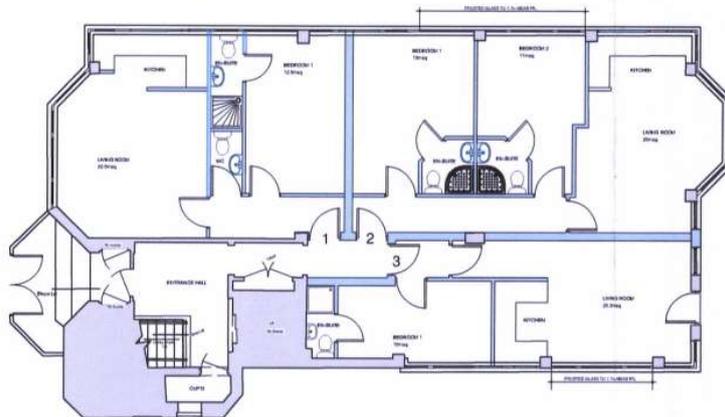


Above: Kensington House, windows and balconies shown on left hand side of floor plans are the north-west elevation referred to in the elevation drawing.

- 7.46 To the south, there are some concerns with the potential impacts on outlook from No.39 Windsor Road, namely as this is the shortest separation distance from any other building in relation to the proposed development at around 11.4m. The planning history for this neighbouring building (ref: P/00861/013) indicates that a number of bedrooms face northwards with windows that are the only source of light:



FIRST FLOOR



GROUND FLOOR

7.47 The proposed development has been so designed as to ensure that any windows in the southern elevation looking out towards this neighbouring site would be obscured (as annotated on the drawings) to prevent overlooking of No.39 Windsor Road:



- 7.48 There would be no loss of sunlight in this instance due to the development's positioning to the north. There would be some perception of overlooking to the south, however this already occurs from the existing 4 storeys.
- 7.49 The proposal is for a residential use above a building which is already in the same use. There are no concerns with potential for noise or disturbance as a result. The living conditions and matters such as amenity space are discussed below.
- 7.50 Notwithstanding that a daylight/sunlight assessment has not been submitted, Officers are satisfied that sufficient information has been submitted to ascertain that there would not be any unreasonable levels of impact on neighbouring properties in this instance. There would be no undue overlooking and no undue loss of sunlight or daylight. It is important to note however that this demonstrates an absence of harm and is a matter to be attributed neutral weight in the overall planning balance. It is not a benefit that justifies or outweighs the harms identified elsewhere in this report.

### **Living conditions for future occupiers of the development**

- 7.51 The NPPF states that planning decisions should ensure that developments 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.
- 7.52 Core Policy 4 of Council's Core Strategy seeks high density residential development to achieve "a high standard of design which creates attractive living conditions", as set out in the supporting text. Saved Policy EN1 in the Local Plan requires development proposals to reflect a high standard of design and must be compatible with, and/or improve the surroundings in terms of layout, scale, height, architectural style and materials.
- 7.53 The flats on the fourth and fifth floors exactly match the Nationally Described Space Standards, whilst the flats on the sixth and seventh floors are all larger than is required in the NDSS. As such, the proposals would be acceptable with regard to the size of the internal living space. However, a number of bedrooms located towards the northern and southern flanks of the building are only served by obscured windows. This means that those bedrooms would not benefit from any genuine outlook and the living conditions within those rooms may feel oppressive. This is not an acceptable design approach in this regard. There would be bedrooms which are only served by obscurely glazed windows, this would limit natural daylight and sunlight, and the future occupiers would rely on artificial lighting, the layout is of poor design and is not acceptable, the applicant has not submitted a Daylight and Sunlight Assessment to conclude that acceptable levels would be provided. This would require fundamental design changes to the layout of the scheme and in its existing form cannot be supported by the Local Planning Authority.
- 7.54 Furthermore, the unit shown as Apartment 41 would have wide sliding doors off of the open plan kitchen, dining and living area which face the communal terrace area. This communal amenity space also extends to the north outside one of the master bedrooms serving this flat. This is not an appropriate relationship between primary residential uses and communal areas and will mean that the residents of Apartment 41 are likely to have their windows and curtains/blinds closed 'around the clock' to ensure that their privacy is not affected, despite the fact that residents of the other 40

flats may be using the communal space for legitimate purposes. This would drastically affect the living conditions of the future occupants of apartment 41 and is not acceptable in design terms as the occupants will likely be subject to noise and disturbance from use of the communal space.

- 7.55 For the above reasons, the proposed development would provide unacceptable living conditions for many of its future occupants. Therefore, it would conflict with Local Plan Policy EN1 and Core Strategy Policy 8 which, in combination, require a high standard of design. It would also conflict with paragraph 135(f) of the Framework which indicates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

### Amenity

- 7.56 Policy H14 of the Local Plan discusses Amenity Space. It states that:

*The appropriate level will be determined through consideration of the following criteria:*

- a) type and size of dwelling and type of household likely to occupy dwelling;*
- b) quality of proposed amenity space in terms of area, depth, orientation, privacy, attractiveness, usefulness and accessibility;*
- c) character of surrounding area in terms of size and type of amenity space for existing dwellings;*
- d) proximity to existing public open space and play facilities; and e) provision and size of balconies*

- 7.57 The new flats to be created at fourth and fifth levels would not benefit from any private external amenity space and would instead be reliant upon the communal space proposed at the top floor. The three units at sixth floor level would each have a reasonable sized terrace, albeit these would likely be overlooked by the top floor flat and proposed communal space. Notwithstanding the concerns regarding the relationship between units, and issues with internal living conditions raised above, it does appear that the provision of communal space would address an existing under provision and lack of amenity space for the existing development, as well as catering to the future occupants of the proposed development.

- 7.58 It is therefore considered that the proposed internal living conditions would be unacceptable in this instance, failing to provide several units with reasonable outlook from their bedrooms, as well as being an inappropriate relationship between the proposed communal space and the top floor unit, apartment 41. This is a matter to be attributed significant adverse weight in the overall planning balance. These issues could not satisfactorily be overcome by the use of planning conditions.

### **Landscaping and Trees**

- 7.59 Core Policy 9 of the Core Strategy states that development will not be permitted unless it enhances and preserves natural habitats and the biodiversity of the Borough, including corridors between biodiversity rich features.
- 7.60 As set out above in this report, the Council's Urban Design Consultant has set out a number of concerns with regard to 'missed opportunities' with this development and how it could have been improved in design terms. This includes opportunities to reduce parking areas and increase the 'public facing' western part of the site where it adjoins Windsor Road, as well as creating other defensible spaces to prevent parking on paths etc.

- 7.61 Notwithstanding this, it is acknowledged that the proposals largely relate to an upward extension of the existing building. The 'squaring off' of the north-eastern corner of the building would not affect any existing soft landscaping. On the contrary, the submitted site plan suggests that there would be enhancements along the southern and western boundaries of the site and this would result in visual and ecological improvements.
- 7.62 There is a 'blanket' TPO on the site but the works do not appear to be located within the crown of any existing protected trees, according to the site plan. Had permission otherwise been forthcoming, planning conditions would have been imposed to ensure that these trees are protected during the course of the works.
- 7.63 The proposed planting is considered a benefit of the scheme, however no specific details have been provided at this stage and it appears more as a 'token gesture' to soften the otherwise significant visual impacts of the development. As such, Officers consider it appropriate to attribute nominal positive weight in the overall planning balance.

### **Ecology & Impact on Local Protected Habitats [including Burnham Beeches Special Area of Conservation]**

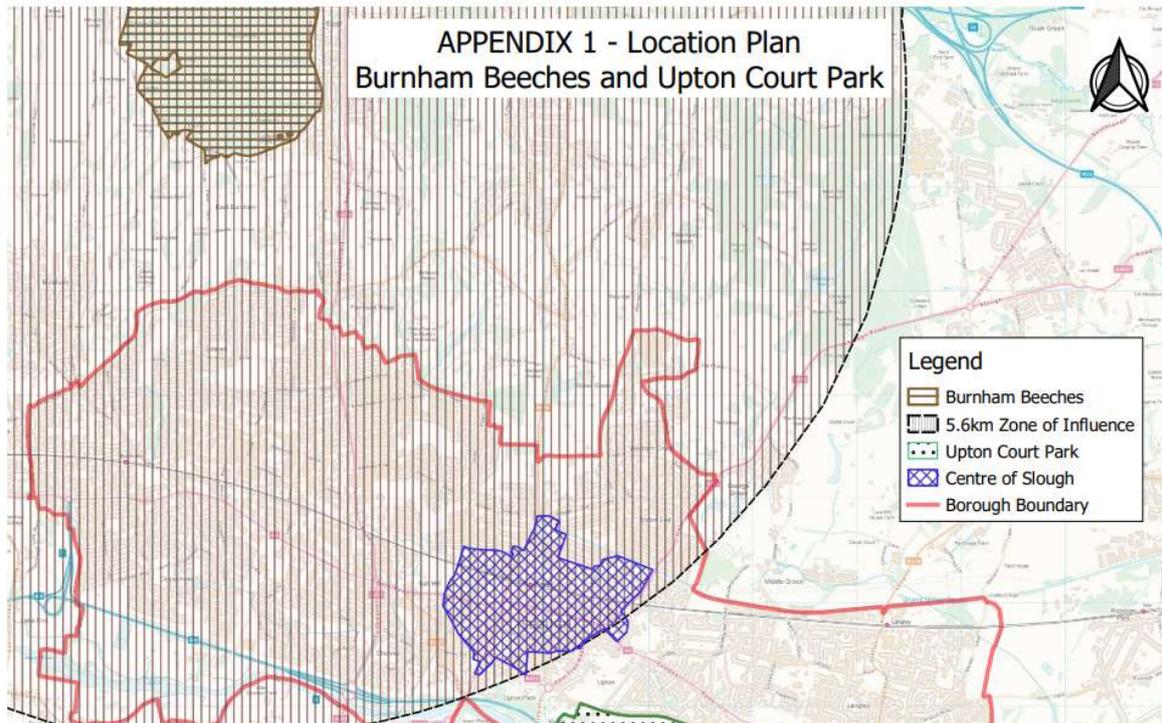
- 7.64 Paragraph 192 (b) of the NPPF requires new development to promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
- 7.65 Core Policy 9 relates to the natural environment and requires new development to preserve and enhance natural habitats and the biodiversity of the Borough, including corridors between biodiversity rich features.
- 7.66 Saved Policy EN22 sets out that special account will be taken of nature conservation interest when determining proposals for development which would be detrimental to land which contains features of ecological importance. Ecological appraisals are required where proposed development is likely to threaten any nature conservation interest.

### **Biodiversity Net Gain**

- 7.67 In England, Biodiversity Net Gain (BNG) is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.
- 7.68 Notwithstanding the above, there are exemptions to BNG and this includes the 'de minimis' rule where the amount of habitat, hedgerow or watercourse affected is less than 25sqm. This is the exemption that the applicant has applied for on the application forms. Officers have visited the site and concur that less than 25sqm of habitat would be affected and as such, the exemption applies in this instance.

## Impact on Burnham Beeches SAC and Review of Shadow Habitat Regulations Assessment & Appropriate Assessment

7.69 Under the requirements of the Conservation of Habitats and Species Regulations 2019 ('The Habitats Regulations') it is necessary to consider whether the proposed project may have significant effects upon areas of nature conservation importance designated/classified under the Directives (Habitats Sites). In this case the proposed development is entirely within a 5.6 Km buffer zone of Burnham Beeches Special Area of Conservation (SAC) located to the northwest of Slough outside the borough boundary. This is shown in the image below:



- 7.70 The Habitats Regulations place a duty upon 'Competent Authorities' i.e. Slough Borough Council to consider the potential for effects upon 'Habitats Sites' (Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar) prior to granting consent for projects or plans.
- 7.71 The applicant should have undertaken a Shadow Habitats Regulations Assessment and Shadow Appropriate Assessment and provided this as part of the planning application, however this has not been submitted. In the absence of sufficient information and the relevant assessments, the LPA cannot consider the Likely Significant Effects (LSE) of the proposal in this instance. It cannot be ruled out, for instance, that the future occupiers of the proposed 14 residential units (as many as 57 new residents from the new units, and 4 additional residents from amendments to existing flats, totalling 61 new residents) would not use Burnham Beeches for recreational purposes, given that the site is within the zone of influence.
- 7.72 As such, there is no indication of the appropriate mitigation measures that would be in place and no Shadow Appropriate Assessment to inform the Council's own assessment.
- 7.73 The Council and Natural England have agreed in principle that an appropriate strategic solution to mitigating the cumulative impacts on Burnham Beeches from development

(within the Burnham Beeches SAC buffer zone within Slough) would comprise improvements towards Upton Court Park to the south of the Borough. The Council's draft Mitigation Strategy and the Upton Court Park Master Plan identifies a range of biodiversity/natural habitat improvements in Upton Court Park and identifies the Park as a suitable alternative natural greenspace (SANG). The 68 ha. park has the carrying capacity for more residents to use it. Its size, accessibility, substantial areas of existing semi natural habitat and walking routes means visitors can enjoy walks amongst nature away from development. It is already used for dog walking providing an alternative to Burnham Beeches. Implementation of some projects in the Mitigation Strategy/Master Plan will enhance its attractiveness to visitors and provide mitigation for the completed and fully occupied development. The Park as it is, provides mitigation associated with the occupation of the early phases of the development.

7.74 The potential mitigation projects for Upton Court Park, which have been agreed (in-principle) by Natural England and SBC include:

- Creation of wetlands/wetland restoration and improvement projects.
- Creation of a spiral viewing mound.
- Screening of the M4.
- Creation of new gravel and reason bound paths (no tarmac).
- General biodiversity improvements across the site (wildflower meadows, bee corridors, community orchards and foraging trails, tree planting etc)
- Creation of seating, provision of bins and infrastructure at the park entrances

7.75 The Mitigation Strategy identifies work priorities in Slough to address the Council's duty under the Habitat Regulations regarding reducing visitor pressure on the Burnham Beeches SAC sensitive habitat as a result of new residential developments within the zone of influence. The aim of creating alternative recreation spaces is to attract visitors who might have otherwise travel to Burnham Beeches SAC and also to improve biodiversity generally in the area. Section 106 contributions would apply to residential developments within 5.6km of Burnham Beeches SAC with the requirement for a contribution being set in a guidance document, and subsequently in a Supplementary Planning Document. This is to the effect of £570 per additional dwelling.

7.76 In the absence of sufficient supporting information, nor a Section 106 agreement to secure the financial contributions, it is considered that the proposal would therefore result in adverse harm to the Burnham Beeches SAC and the application should therefore be refused. This potential impact to ecology is attributed significant adverse weight in the overall planning balance.

### **Transport and Highways**

7.77 Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

7.78 Paragraph 115 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.

7.79 Paragraph 116 of the NPPF states that development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

7.80 Core Policy 7 states that all new development should reinforce the principles of the transport strategy as set out in the council's Local Transport Plan and Spatial Strategy, which seek to ensure that new development is sustainable and is located in the most accessible locations, thereby reducing the need to travel.

Development proposals will, either individually or collectively, have to make appropriate provisions for:

- Reducing the need to travel;
- Widening travel choices and making travel by sustainable means of transport more attractive than the private car;
- Improving road safety; and
- Improving air quality and reducing the impact of travel upon the environment, in particular climate change.

7.81 Policy T2 of The Adopted Local Plan for Slough 2004 seeks to restrain levels of parking in order to reduce the reliance on the private car through the imposition of parking standards. The Parking Standards have been updated within Part 3 of the Slough Developer's Guide.

7.82 The application is supported by a Travel Plan. As set out above, the proposals involve some alterations to the existing parking areas and bin stores and there would be a resultant increase of one parking space. The proposals have been considered by the Council's Highways Officers and their comments are set out above in this report. These comments indicate that an objection could not be substantiated in relation to parking provision, given the town centre location in which SBC allows for 'nil' parking provision. This is notwithstanding that reference has incorrectly been made to a greater number of residential units than is actually proposed.

- 7.83 Whilst there are no apparent concerns with regard to highway safety, traffic movements, trip generation and parking provision, the proposals would nonetheless result in the loss of the existing cycle store. The Planning Statement and DAS refer to the creation of new cycle storage within the proposed extension, however this is not shown. It is also unclear at this stage how a sizeable bike store to serve the potential 61 residents could be achieved within the site, without unduly affecting car parking spaces or the required bin store. This is not something that could be reasonably secured via a planning condition and would instead involve notable changes to the site layout. In the absence of a bike store, or sufficient space within the site to provide one, the application should therefore be refused in accordance with the Highway Officer's comments.

## **Sustainability and Energy**

- 7.84 Core Policy 8 (Sustainability and the Environment) states that:

*All development in the Borough shall be sustainable, of a high quality design, improve the quality of the environment and address the impact of climate change. All development should, where feasible, include measures to:*

- *Minimise the consumption and unnecessary use of energy; particularly from non renewable sources;*
- *Recycle waste*
- *Generate energy from renewable resources;*
- *Reduce water consumption; and*
- *Incorporate design and construction techniques, including the use of recycled and energy efficient building materials.*

- 7.85 An Energy Statement has not been submitted with the application, although it has been noted that the proposals incorporate a green roof. It appears that some limited regard has been had to the potential energy use and carbon offsetting. Had the LPA otherwise been in a position to support the proposals, then these measures would have been secured via a planning condition. This matter attracts neutral weight in the planning balance.

## **Air Quality and Noise**

- 7.86 Core Policy 8 of the Core Strategy seeks development to be located away from areas affected by air pollution unless the development incorporates appropriate mitigation measures to limit the adverse effects on occupiers and other appropriate receptors. Proposal should not result in unacceptable levels of air pollution. This is reflected in the National Planning Policy Framework which also goes on to require any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.
- 7.87 The Council has adopted Low Emission Strategy on a corporate basis, which is a local air quality action plan incorporating initiatives to be delivered by the Council and will set the context for revising the Local Development Plan Policies. Measures in the Low Emission Strategy include reducing traffic, requiring electric charging points, and low emission boilers within new developments. The Low Emission Strategy is a material planning consideration but it does not form part of the current local development plan.

- 7.88 The application has been supported by an Environmental Noise Impact Assessment which has been reviewed by the Council's Environmental Health Officers and, although an Air Quality Assessment has not been submitted, colleagues have had regard to the impacts in air quality terms. As set out above in this report, there are no objections subject to a number of planning conditions being imposed. It can therefore be considered that the proposals would have been acceptable, had planning permission been forthcoming. This absence of harm attracts neutral weight in the planning balance.

### **Flood Risk and Drainage**

- 7.89 Core Policy 8 states that development must manage surface water arising from the site in a sustainable manner which will also reduce the risk of flooding and improve water quality. Sustainable Drainage Systems (SUDs) are an effective way to reduce the impact of urbanisation on watercourse flows, ensure the protection and enhancement of water quality and encourage the recharge of groundwater in a natural way. The National Planning Policy Framework states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Advice from the lead local flood authority should be taken into account.
- 7.90 In this regard, the LLFA were consulted on the proposals but comments have not been received. Officers consider it appropriate to be pragmatic in this instance, noting that the proposals largely relate to an upward extension of the existing building and the 'squaring off' of the north-east corner of the building. Some minor alterations are proposed to the bin store and parking areas. Notwithstanding these changes, they are located on areas that are already hard-surfaced and there would be no material loss of permeable surfaces. As such, Officers consider it reasonable that drainage can be dealt with by way of planning conditions in this instance, ensuring that surface water is appropriately managed on site, and does not lead to increased risk of surface water flooding on adjacent land.
- 7.91 With regard to fluvial flooding, the site is located entirely within Flood Zone 1 which is considered to be at the lowest risk of flooding. A detailed Flood Risk Assessment (FRA) has been submitted and Officers are satisfied that the proposals would have otherwise been acceptable, subject to planning conditions. This absence of harm attracts neutral weight in the planning balance.

### **Fire Safety**

- 7.92 The Department for Levelling Up, Housing and Communities (DLUHC) published additional national guidance on 1<sup>st</sup> August 2021 relating to fire safety and high-rise residential buildings. The guidance introduces additional measures to ensure fire safety matters are incorporated at the planning stage for schemes involving a relevant high-rise residential building. The requirements apply to applications for planning permission made on or after 1 August 2021 as a result of the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021 ("the 2021 Order").
- 7.93 The Government made a commitment in 'A reformed building safety regulatory system: government response to the 'Building a Safer Future' consultation' to introduce 'Planning Gateway One' which has two key elements:
- to require the developer to submit a fire statement setting out fire safety considerations specific to the development with a relevant application for planning permission for development which involves one or more relevant buildings, and

- to establish the Health and Safety Executive as a statutory consultee for relevant planning applications
- 7.94 In accordance with this national requirement, the Applicant has submitted a Fire Statement Form and the LPA has consulted HSE (Gateway One) and the Local Fire Services.
- 7.95 As set out in the 'consultees' section of this report, HSE has raised concerns due to the lack of supporting information submitted, namely that there is insufficient fire safety information. HSE have provided a list of additional information that would be required before they could be satisfied that the proposals would not pose a risk to future occupiers of the development. In the absence of such information, it has not been demonstrated that the future occupiers of the development would be safe in the event of a fire. This is a matter that must be attributed significant adverse weight in the overall planning balance.

### **Making effective use of land**

- 7.96 Section 11 of the NPPF relates to 'making effective use of land' and sets out in Paragraph 124 that planning policies and 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. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' Land. Paragraph 125 d) adds that planning policies and decisions should, amongst other things, promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure).
- 7.97 The LPA acknowledges that the upward extension of the building would be acceptable in principle, and that the site is suitable for further residential development, given that it is already in an existing residential use. However, the provision of additional residential units must not be 'at any cost' and needs to be balanced against other material planning considerations which have been set out elsewhere in this report. For example, 'density' is not the sole determining factor as to whether a proposal makes effective use of a site.
- 7.98 Officers recognise that the site is suitable for further residential development, notwithstanding the concerns set out elsewhere in this report, including the concerns relating to building design, amenity of future occupiers, impact on Burnham Beeches Special Area of Conservation and fire safety matters. This is a matter to be attributed neutral weight for decision making purposes.

### **Equality Considerations**

- 7.99 The Council is subject to the Public Sector Equality Duty in section 149 of the Equality Act 2010, which (amongst other things) requires the Council to have due regard to the need to eliminate discrimination/harassment/victimisation, advance equality of opportunity between people who share (and do not share) a protected characteristic and foster good relations between people who share (and do not share) a protected characteristic.

- 7.100 Having due regard to the need to advance equality of opportunity between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to: (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and (iii) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 7.101 Having due regard to the need to foster good relations between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to: (i) tackle prejudice; and (ii) promote understanding.
- 7.102 The protected characteristics referred to in the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The PSED is a continuing duty to have regard to the objectives identified in the Act as opposed to requiring the Council to achieve any particular outcome.
- 7.103 Throughout this report, due regard has been had to the needs of individuals with these protected characteristics, as required by the Act in order to understand the likely impact of the development proposal on them. In any case, the application is being refused for the reasons set out above in this report.

## **PLANNING BALANCE**

- 8.1 The application has been evaluated against the Development Plan and other material considerations including the NPPF. The Authority has assessed the application against the core planning principles of the NPPF and this includes Paragraph 11 which applies a presumption in favour of sustainable development. For decision-taking, this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance<sup>7</sup> provides a strong reason for refusing the development proposed; or
  - ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.2 As the LPA cannot demonstrate a 5-year housing land supply, c) above does not apply. With regard to d), Footnote 7 makes clear that “areas or assets of particular importance” includes habitat sites (and those listed in Paragraph 194 of the NPPF, which includes Special Areas of Conservation). It has been set out in this report that the proposal fails to account for the Burnham Beeches SAC and there is no financial contribution in lieu and no Section 106 agreement has been agreed. The LPA

considers that this provides a strong reason for refusing the development. As such, the tilted balance in d) ii. is not engaged with regard to this matter.

- 8.3 Notwithstanding the above, if the SBC Planning Committee, or subsequently the Planning Inspectorate (as part of an appeal) consider that the impacts on the Burnham Beeches SAC do not provide a 'strong' reason to refuse the development, then the tilted balance would be engaged. Officers have set out that there would be potential benefits resulting from the increase in housing units in an accessible location well related to public transport, shops, employment opportunities, services and facilities and the temporary benefits to the economy from the construction works themselves. The proposal would also promote the use of a brownfield site and support the Government's objective of significantly boosting the supply of homes.

However, on the contrary, there would be significant adverse harm with regard to design and character, the living conditions of future occupiers of the development, impacts on ecology, lack of sustainable transport encouragement (cycle stores) and potential fire safety risks. Furthermore, the design results in a poor standard of living accommodation for future occupiers. Overall, it is considered that the adverse impacts would therefore significantly and demonstrably outweigh the benefits associated with the proposal. A number of other planning matters attract neutral weight in the overall planning balance as they are not benefits of the scheme, nor are they in themselves harmful.

- 8.4 Taking all relevant matters into the overall planning balance, it is clear that the adverse impacts of the proposal would significantly and demonstrably outweigh the limited potential benefits and as such the application should be **refused** for the reasons set out at the top of this report. It should be noted that the drawings and information for this which application is being refused, will be listed on the decision notice.