

## WINDSOR URBAN DEVELOPMENT CONTROL PANEL

16 August 2017

Item: 4

<b>Application No.:</b>	17/00912/FULL
<b>Location:</b>	Land Between 3 And 4 And 5 Clewer Fields Windsor
<b>Proposal:</b>	Construction of a pair of 1 No. bedroom semi detached houses.
<b>Applicant:</b>	Mr Ball
<b>Agent:</b>	Kevin J Turner
<b>Parish/Ward:</b>	Windsor Unparished/Castle Without Ward
<b>If you have a question about this report, please contact:</b> Adam Ralton on 01628 685693 or at adam.ralton@rbwm.gov.uk	

### 1. SUMMARY

- 1.1 The proposal seeks planning permission for the construction of a pair of two-storey semi-detached dwellings. It is acknowledged that this scheme would make a contribution to the Borough's housing stock through the provision of 2 additional dwellings, however, the application is recommended for refusal on the grounds of flood risk, adverse impact on the character of the area, and detrimental impact on the amenity of neighbouring and future occupiers.

**It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):**

1.	<b>The proposed dwellings are sited in flood zone 2 (medium risk flooding). The application fails to demonstrate that the Sequential Test has been passed.</b>
2	<b>The proposed development would result in a cramped and contrived form of development, out of character with the pattern and form of development.</b>
3.	<b>The proposed development would be overbearing and result in overshadowing to the rear garden areas and rear elevations of neighbouring properties.</b>
4.	<b>The size of the garden is insufficient for future occupiers.</b>

### 2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Jack Rankin, due to the amount of local interest generated by the proposal.

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

- 3.1 Clewer Fields is characterised by a mix of housing types including terraced and semi-detached properties of varying areas. Clewer Fields itself is a pedestrian route, between and parallel to Oxford Road and Bexley Street. To the north of the application site is the rear of the two storey properties which front Oxford Road. To the east of the application site are a pair of semi-detached properties which back onto the site. To the west of the application site is a row of terraced houses, with flank elevations facing the site.

- 3.2 The application site is roughly L-shaped, measuring approximately 0.03ha facing Clewer Fields. The site is currently occupied by a garage building which is not used.
- 3.3 The application site lies within Flood Zone 2 (Medium Risk), with the northern part of the site included within Flood Zone 3 (high risk).

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

- 4.1 The application proposes a two storey pair of semi-detached dwellings. The proposed building would measure 7.8 metres in width and depth. It would have an eaves height of approximately 4.6 metres and a ridge height of approximately 6.6 metres. The building would include a single storey front porch with a lean-to roof. The front porches would be sited on the boundary of the curtilage of the site with Clewer Fields.
- 4.2 The site has previously been subject of two planning applications for redevelopment. The most recent of these (reference 16/01397/FULL) proposed a two storey detached dwelling, but was withdrawn prior to a formal decision being made.
- 4.3 Before that, planning application 15/00397/FULL proposed a detached two bedroom, two storey dwelling. That application was refused for six reasons, as follows (summarised):
  - 4.3.1 The proposed two storey dwelling would result in a cramped and contrived form of development which is out of character with the pattern and form of development in the area.
  - 4.3.2 The dwelling would by reason of its proximity to the northern and eastern boundaries result in an unacceptable loss of privacy to the rear garden of numbers 113 and 115 Oxford Street from the habitable first floor window in the rear elevation of the dwelling. At two stories, the dwelling would be overbearing and result in overshadowing the rear garden areas and rear elevations of numbers 111, 113 and 115 of Oxford Street and would be overbearing to numbers 3 and 4 Clewer Fields.
  - 4.3.3 The size of the resultant garden area is considered to be insufficient for future occupiers.
  - 4.3.4 The proposed new residential dwelling at this site is not compatible within this flood zone and therefore, should not be permitted. Additionally the development would result in a loss of flood water storage during a flood event. Furthermore the proposed development would also potentially place additional people and property at risk of flooding contrary to policy in the NPPF.
  - 4.3.5 The applicant has failed to enter into a legal agreement to prohibit future occupiers applying for parking permits
  - 4.3.6 As a result of discrepancies in the drawings it cannot be ascertained with certainty that the development would have an acceptable impact on the appearance of the area or the amenities of the area.

This refusal of planning permission is a material consideration to the determination of this application.

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

### 5.1 National Planning Policy Framework:

- Core principle 4 - Good standard of amenity for all existing and future occupiers,
- Section 6 (Delivering a wide choice of high quality homes),
- Section 7 (Requiring good design),
- Section 10 (Meeting the challenge of climate change, flooding and coastal change)

### Royal Borough Local Plan

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

Within settlement area	Highways and Parking	Flood Risk
DG1, H10, H11	P4, T5	F1

These policies can be found at

[https://www3.rbwm.gov.uk/downloads/download/154/local\\_plan\\_documents\\_and\\_appendices](https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices)

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Makes suitable provision for infrastructure	IF1

The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Proposed Submission Document was published in June 2017. Public consultation runs from 30 June to 26 August 2017 with the intention to submit the Plan to the Planning Inspectorate in October 2017. In this context, the Borough Local Plan: Submission Version is a material consideration, but limited weight is afforded to this document at this time.

This document can be found at:

<http://rbwm.moderngov.co.uk/documents/s14392/Appendix%20A%20-%20Borough%20Local%20Plan%20Submission%20Version.pdf>

### Supplementary planning documents

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

- The Interpretation of Policy F1 (Area Liable to Flooding) Supplementary Planning Guidance (SPG) 2004

More information on these documents can be found at:

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

## **Other Local Strategies or Publications**

5.4 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy

More information on these documents can be found at:

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

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i Impact of the development on flood risk
- ii The impact of the proposal on the character and appearance of the area
- iii The impact of the proposal on neighbouring amenity and the amenity of future occupiers.
- iv Impact of the development on parking

### **Development within the flood zone**

6.2 In the previously refused application the site was identified as being in functional flood plain and so the development was refused on the grounds that it involved development not compatible with this flood zone. The Flood Risk Assessment (FRA) accompanied with this application identifies that the site lies within Flood Zone 2 and 3a (as confirmed by EA and in the Council's SFRA), defined as having a medium and high probability of flooding.

6.3 This application has been accompanied by a Sequential Test (as required by National Planning Policy), which is to assess if there are any other sites at a lower risk of flooding than the application site that are reasonably available that could be developed. The submitted Sequential Test uses the Strategic Housing Land Availability Assessment (SHLAA) 2014 as the source of information to assess sites. However, as part of the production of the emerging Borough Local Plan, the Housing and Economic Land Availability Assessment (HELAA) (2016) has been published, which provides a more up to date source of information of sites that should be used to inform the Sequential Test. As the submitted Sequential Test is not based on the most up to date evidence base, it cannot be demonstrated that the Sequential Test has been passed. No further assessment of the acceptability of the development in the flood zone is required.

6.4 Notwithstanding the above, it should be noted that the applicant's FRA does not fulfil the requirements set out in the NPPF and does not therefore provide a suitable assessment of the flood risk arising from the proposed development. In particular, the FRA fails to assess the impact of climate change using the latest guidance and

appropriate climate change allowances, and fails to demonstrate if there is any loss of flood plain storage within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development, and if so that it can be mitigated for.

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

- 6.5 The site is situated within an established residential area. Policy H11 of the Local Plan states 'in established residential areas, planning permission will not be granted for schemes which would introduce a scale or density of new development which would be incompatible with or cause damage to the character and amenity of the area'.
- 6.6 In the previously refused application (for one dwelling), the scheme was considered to result in cramped and contrived form of development. In this case, the proposed pair of semi-detached dwellings would be contained within a building which would have a greater width and depth than the previously refused scheme. Whilst the roof form and design would be better proportioned than the previous scheme, the larger footprint results in the proposed building filling a greater proportion of its plot than the previously refused scheme. The front porch would abut the front boundary, and the flank walls would be only 0.7m from the eastern boundary of the site and 2.3 metres from the western boundary.
- 6.7 Given the size of the proposed building, the proportion of the plot that would be developed, and the close proximity of the proposal to the neighbouring buildings, it is considered that the proposed dwelling would appear cramped within its plot, and would be incompatible with the character and amenity of the area.

### **Impact on neighbouring amenity and the amenity of future occupiers**

- 6.8 As noted above, the proposed building would occupy much of its plot. The submitted plans indicate a communal garden with a depth ranging from 3 metres to 5.2 metres. The scheme is considered to lack sufficient quality and quantity of outdoor amenity space for future occupiers, contrary to bullet point 4 of the Core Planning Principles at paragraph 17 of the NPPF which states that planning should seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings. This was noted as a reason for refusal for the previous application and remains relevant to the current application.
- 6.9 In terms of the impact of the proposed building on the amenities of neighbours, the previous application noted that the proposal would result in an unacceptable loss of privacy to the rear gardens of 113 and 115 Oxford Street, would be overbearing and result in overshadowing to the rear garden and rear elevations of 111, 113 and 115 Oxford Street and would be overbearing to 3 and 4 Clewer Fields. As noted above, the width and depth of the building has been increased since the previous application and this would not address the previous concerns in respect of the overbearing or visually intrusive impact on the neighbours. This factor remains relevant and it is considered that the proposed building would appear overbearing and result in overshadowing to the rear garden and rear elevations at 111, 113 and 115 Oxford Street, and overbearing to 3 and 4 Clewer Fields. The overshadowing would be especially apparent as the proposed building would be to the south of the south-facing gardens of properties fronting Oxford Road.

- 6.10 The previous application included in the reason for refusal an adverse impact on the privacy of neighbours. Since that refusal, the internal layout has been changed and primary habitable room windows do not face 113 or 115 Oxford Street. Bathroom windows face these neighbours and these could be conditioned to be obscure glazed. On this basis, it is not considered that this scheme would harm the privacy of the occupants of any neighbouring dwelling.

### **Parking**

- 6.11 It is accepted that parking cannot be provided on the site. In the previously refused planning application, the failure of the applicant to enter into a legal agreement to restrict future occupiers from applying to the Council for parking permits was a reason for refusal. The LPA no longer uses legal agreements to restrict parking permits from being issued, and it is for the Council's parking manager to manage the issuing of parking permits.

### **Other Material Considerations**

#### Housing Land Supply

- 6.12 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.
- 6.13 It is acknowledged that this scheme would make a contribution to the Borough's housing stock through the provision of 2 additional dwellings. However, it is the view of the Local Planning Authority that the socio-economic benefits of the additional dwellings would be significantly and demonstrably outweighed by the adverse impacts arising from the scheme proposed, including the harm to the character of the area, the harm to the amenities of the neighbours and of future occupants, and flood risk, contrary to the adopted local and neighbourhood plan policies, all of which are essentially consistent with the NPPF, and to the development plan as a whole.

## **7. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 7.1 The application proposes a new residential development and therefore would be liable for a Community Infrastructure Levy contribution. Based on the submitted information, the tariff payable for this development would be £240 per square metre.

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

12 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 18 May 2017.

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

Comment	Where in the report this is considered
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1.	Loss of privacy and overlooking to outside spaces and rooms at 111 and 113 Oxford Road	6.5-6.7
2.	Loss of light to garden and rooms at 113 Oxford Road	6.5-6.7
3.	Reduced light to rear of properties could cause damp issues	Not a material planning consideration
4.	Additional of new properties onto existing drainage system will create a capacity issue	Not a material planning consideration
5.	How will it be ensured that the new residents do have a garage and do not add to the cars currently parking on Oxford Road or apply for residents permits	6.10
6.	Plans appear misleading in terms of their measurement and impact	No evidence to suggest plans are inaccurate.
7.	During the build there would not excessive traffic and adverse effect on road safety.	6.10
8.	Additional occupants from two houses would put further pressure on local services.	7.1
9.	Proposal would result in an increase in noise and general disturbance to surrounding neighbours	The proposed use would be residential which is considered compatible for a residential area.
10.	Plot acts as a natural area of surface water to flow, and this area would be reduced as a result of the proposal.	6.8
11.	Safety of users of Clewer Fields could be compromised during construction works	A construction management plan would be secured by condition in the event of an approval

### Statutory consultees

Consultee	Comment	Where in the report this is considered
Highways	<p>The small piece of land is located in between 3 and 5 Clewer Fields. The site does not benefit from any form of vehicular access and can be only accessed via a pedestrian footpath (alley way) which is approximately 2.0m wide and runs along the south side adjacent to the site. Given there is no parking available and no residential parking permits will be issued vehicle movements will be unlikely and may well only occur during the pay and display period.</p> <p>Parking Provision/Requirement: A 1 bedroom dwelling within this location requires a need for 1 car parking space to be provided. As the site does not benefit from any form of off street parking the Highways Authority are willing to take a pragmatic approach on a condition that the applicant and future successors of the site are not entitled to a residential parking permit. This is to ensure there is no loss of parking for the existing residents nearby.</p> <p>Parking restrictions such as double yellow lines, residents permit holders and pay and display operates within the</p>	6.10

	<p>nearby area.</p> <p>Refuse Provision: The refuse provision would be the same as the neighbouring properties and so can be seen as adequate.</p> <p>Cycle Provision: Given no vehicle parking can be provided and likelihood of future occupants owning several bicycles the applicant will be required to provide a secure cycle store for both properties.</p> <p>Additional Comments: We would normally recommend a refusal on parking grounds, however given the site offers no vehicular access / parking the Project Centre are willing on this occasion to take a pragmatic approach and accept no parking, subject to no parking permits being issued. The parking team will be notified.</p>	
Environment Agency	<p>The application site lies within Flood Zone 2 &amp; 3 defined by the National Planning Policy Framework (NPPF) and associated Flood risk and coastal change National Planning Policy Guidance (NPPG) as having a medium &amp; high probability of flooding.</p> <p>The FRA submitted with this application, reference FRA Clewer Fields dated February 2017 and prepared by Paul Garrad, does not fulfill the requirements set out in the NPPF and the associated PPG and does not therefore provide a suitable assessment of the flood risk arising from the proposed development.</p> <p>In particular, the submitted FRA fails to:</p> <ol style="list-style-type: none"> <li>1. Assess the impact of climate change using the latest guidance and appropriate climate change allowances.</li> <li>2. Demonstrate if there is any loss of flood plain storage within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development and if so that it can be mitigated for</li> </ol>	

## 9. APPENDICES TO THIS REPORT

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

## 10. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The proposed dwellings are situated within flood zone 2 (medium risk flooding).The application fails to demonstrate that the Sequential Test is passed, as required by paragraphs 100 to 103 of the National Planning Policy Framework.
- 2 The proposed two storey dwelling would result in a cramped and contrived form of development which is out of character with the pattern and form of development in the area which would not comply with Policies H11 and DG1 of the Royal Borough



of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), and requirements of the fourth Core Principle and paragraph 64 of the National Planning Policy Framework.

- 3 The dwelling would, by reason of its proximity to the northern and eastern boundaries be overbearing and result in overshadowing to the rear garden areas and rear elevations of numbers 111, 113 and 115 of Oxford Street and would be overbearing to numbers 3 and 4 Clewer Fields and would not comply with the fourth Core Principle of the NPPF- to secure a good standard of amenity for all.
- 4 The size of the resultant garden area is considered to be insufficient for future occupiers, and as such is considered to conflict with a core principle of the National Planning Policy Framework to secure a good standard of amenity for all future and existing occupiers of land and buildings.