

MAIDENHEAD DEVELOPMENT MANAGEMENT COMMITTEE

WEDNESDAY, 17TH NOVEMBER, 2021

At 7.00 pm

by

COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD, ON [RBWM YOUTUBE](#)

SUPPLEMENTARY AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
6.	<p><u>21/02866/FULL - LAND TO THE SOUTH OF 18 TO 20 AND OPEN SPACE TO THE SOUTH OF RAY MILL ROAD EAST, MAIDENHEAD</u></p> <p><i>PROPOSAL: Erection of 80 dwellings together with landscaping, the provision of open space and related facilities, associated engineering works and access to Ray Mill Road East.</i></p> <p>RECOMMENDATION: Refused</p> <p>APPLICANT: Cala Homes (Thames) Ltd and RBWM</p> <p>MEMBER CALL-IN: N/A</p> <p>EXPIRY DATE: 20 December 2021</p>	3 - 10

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Maidenhead Panel

Application No.:	21/02866/FULL
Location:	Land To The South of 18 To 20 And Open Space To The South of Ray Mill Road East Maidenhead
Proposal:	Erection of 80 dwellings together with landscaping, the provision of open space and related facilities, associated engineering works and access to Ray Mill Road East.
Applicant:	Cala Homes (Thames) Ltd And RBWM
Agent:	Mr Douglas Bond
Parish/Ward:	Maidenhead Unparished/Riverside
If you have a question about this report, please contact: Tony Franklin on 01628 796155 or at tony.franklin@rbwm.gov.uk	

1. SUMMARY

- 1.1 The applicant’s original submission of this application and subsequent attempt to respond to the Environment Agencies (EA) objection included, first, the omission from the submitted documents of a Technical Note and addendum report from their Flood Risk Consultants RSK, and secondly, the submission of the wrong version of this Report. This has led to the Environment Agency submitting two consultation responses which do not address the final version of the applicant’s addendum report. This final version of the addendum report dated 14th April 2021 was submitted in support of the previous application, 20/03450/FULL, which was withdrawn prior to it being considered by Members at the August Maidenhead Planning Committee. A response was received from the EA to the 14th April 2021 addendum report under application 20/03450/FULL and, for the sake of clarity, this is appended in full to this Update Report. It will be noted that the EA do not consider that the points raised in the addendum satisfactorily address their earlier concerns. And that they therefore **maintain their objection to the proposals**, as set out in the Committee report. The latest addendum report and the EA response are referred to in section i of the Committee report and, in particular, from paragraph 9.23 onwards.
- 1.2 The applicants have requested that it be clarified that 47.5% of the proposed units are proposed to be affordable and that a Management Company will be responsible for the proposed pumping station.
- 1.3 The developer has submitted a briefing note which was sent to Members. The main points from the briefing note are summarised at 2.1 of this update report with the officer response below.
- 1.4 Attention is also drawn to an email sent from Cala Homes to the Maidenhead Planning Committee Members on 16th November and the points raised are copied at 2.2 with the officer response below.

It is recommended the Panel refuses planning permission for the reasons listed in Section 13 of the main report.

2. ADDITIONAL INFORMATION

- 2.1 A briefing note has been submitted by the developer. The main points set out in the briefing note

are summarised below:

- *The proposal will deliver 80 much needed homes in a highly sustainable location*
- *The scheme will include 47.5% affordable homes which is in excess of what is required by adopted Local Plan policy*
- *The site is underused, and surrounding by existing housing*
- *There will be retention and enhancement of open space to the east of the site, including new tree planting, bat and bird boxes, new hedgerow planting*
- *Provision of PV Panels and waste water heat recovery*
- *Financial contribution towards open space improvements at Maidenhead Town Moor and North Town Moor*
- *The opportunity to create a Neighbourhood Flood Forum*
- *Community Infrastructure Levy payment*
- *Provision of social rented homes which will be well below market rents (40-50%)*
- *Vehicular electric charging points will be provided to all new dwellings*
- *Enhancement to open space which is currently not publicly accessible.*
- *Even within the most pessimistic climate change allowances, all dwellings will remain safe and dry*
- *Due to the characteristics of the Thames catchment, there will be significant warning of an extreme flood event, therefore allowing established emergency procedures to be put in place.*
- *The EA flood model was updated to take account of further climate change predictions, which effectively mean a greater intensity and frequency of precipitation which is unlikely to occur in the lifetime of the development.*
- *Cala Homes are committed to supporting on-site flood mitigation measures and will ensure these are embodied within a future S106. This application would provide a wider benefit to the community, as currently there no formal or collective response to flood management.*

2.2 The site is within Flood Zone 3 applying the most pessimistic climate change allowances. Arguably, these pessimistic assumptions will no longer be realised due to political and social commitments to tackle climate change as demonstrated at COP26;

- Notwithstanding the above, the site it is shown on EA mapping to fall within an **area benefitting from flood defences primarily the Jubilee River and Maidenhead Bund**;
- The development passes the Sequential Test as recognised at para. 9.14 of the Committee Report which notes that **“at the time of writing, there are no other reasonably available sites at a lower risk of flooding that could accommodate the proposed development”**;
- In the unlikely event of an extreme climate change flood event in Maidenhead, all proposed dwellings will remain **100% safe and dry at all times as the proposed floor levels are designed above any predicted 1 in 100 year climate change flood level (which the EA acknowledge)**;
- In the unlikely event of a flood event, **which has a 1% chance of occurring in any 1 given year** should the EAs updated pessimistic climate change assumptions come to fruition, the flood depth would typically be between 20cm and 40cm deep on the internal site roads. **We would reiterate that as all homes remain dry, there would be no need for residents to leave their homes**;
- As the site is some distance from the Thames and its tributaries, there will be a **very low velocity to any flood water present on site**;
- Whilst there will be some minor compensation off-set, at less than 30 m³, this is not material given the extent of the catchment and no evidence has been provided that flood risk would be increased elsewhere;
- In addition, due to the characteristics of the Thames catchment and the position of the site and wider Maidenhead area within it, **there will be significant warning of such an extreme flood event**, thereby allowing established emergency planning procedures to be put in place;
- These planning procedures will include a **community Flood Management Plan** to provide warning and advice to both new and existing residents of this area of Maidenhead, increasing the mitigation for existing residents beyond what is in place at the moment. This will be secured via the s106 agreement

Officer response: Many of the points raised in the Briefing Note have already been made and are

considered in the committee report. It should be noted that the contributions to the Maidenhead Town Moor and North Town Moor are required so that adequate mitigation is provided to offset the impact on the Burnham Beeches SAC (a European Designated site).

The matter of flood risk has been addressed in the committee report. It is noted that the developer cites their view that the climate change allowances are pessimistic, however, in line with guidance in National Planning Policy, climate change is required to be taken into account when assessing flood risk and this should be done in accordance with up to date data. It is noted that the national guidance on climate change allowances is updated regularly, it was last updated on the 6th October 2021 and as such it is recently up to date and should be afforded full weight.

The expressed view that the climate change assumptions will no longer be realised due to political and social commitments is subjective. International commitments to date will still give rise to further global warming, information prior to the COP conference indicated the impacts of the 1.1 degree of warming so far (including to flood risk) and the need to adapt to the impacts of global warming including increased flood risk remains. The planning decision should be based on current up to date government guidance.

The objections maintained by the EA have taken account of the referenced flood defences.

Members will note that the Council's Emergency Planner has objected to the lack of a low hazard escape route in a flood event and had concerns over the proposed flood evacuation plan. The EA have also raised concerns. Enabling residents to stay in their homes during a flood event is not a recognised or acceptable mitigation plan. On the contrary, it has the propensity to place more of a burden on the emergency services.

Claire Pugh
Royal Borough of Windsor &
Maidenhead
Development Control
York Stream House St. Ives Road
Maidenhead
Berkshire
SL6 1QS

Our ref: WA/2021/128675/02-L01
Your ref: 20/03450/FULL
Date: 02 June 2021

Dear Claire

Construction of 16 x one bedroom dwellings; 19 x two bedroom dwellings; 17 x three bedroom dwellings; 28 x four bedroom dwellings, bin storage, associated landscaping and parking, new access from Ray Mill Road East and public open space

Land to the south of 18 to 20 and open space to the south of Ray Mill Road East Maidenhead

Thank you for re-consulting us on the above application on 20 April 2021, following the submission of additional flood risk information.

Environment Agency position

The submitted flood risk assessment (FRA) Addendum (reference133073-R1(2)-EA Addendum 1, dated 14 April 2021 and prepared by RSK) does not satisfactorily address our earlier concerns. We therefore **maintain our objection** set out in our response dated 8 February 2021.

Reasons

Please read the following comments alongside our letter dated 8 February 2021.

Flood data and climate change

The applicant questions why there is a range of flood levels across the site and have stated they propose to use the lower range of flood levels between 24.74mAOD and 24.76mAOD for the entire site. It is our view that the corresponding flood level relevant to a particular part of the site should be used. The Lower Thames 2019 flood model is a 1D/2D model. The 2D domain is divided by a number of grids and each grid calculates velocity, depths and levels. Factors such as surface roughness influence the calculation and resulting flood level for that grid.

Floodplain storage and compensation

The applicant has set out that they cannot provide direct level for level floodplain compensation up to the 1% annual exceedance probability (AEP) flood with a 35%

allowance for climate change. The applicant explains that there will be loss of 29.4m³ in the higher order flood events.

The applicant proposes two scenarios to address the loss of floodplain storage from the development, both of which do not provide level for level compensation up to the 1% AEP flood with a 35% allowance for climate change. The applicant describes the loss of floodplain storage in the context of the wider Thames floodplain as 'negligible'. However, this does not consider local flood mechanisms and potential impacts locally. Losses of flood storage also contribute cumulatively to increased flood risk. National policy (paragraphs 160 and 163 of the NPPF) is clear that flood risk should not be increased elsewhere.

The applicant has explained that underfloor voids will be required to offset flood volumes alongside the proposed floodplain compensation. Paragraph 2.4.9 of the supporting text of policy F1 in your adopted Local Plan states '*The use of pier foundations will not be acceptable as a means of overcoming an objection to a proposal on the grounds of Policy F1. In the past, where this form of design solution has been allowed, problems have resulted from the inability of the planning authority to ensure that the voids beneath the building are not obstructed by domestic effects or by flood debris.*'

Paragraph 2.4.10 goes on to state '*Flood compensation schemes may be considered acceptable but must be carried out on a level for level basis which fully accommodates flood flows and storage and should improve upon the predevelopment situation.*'

The applicant has confirmed that direct level for level floodplain compensation cannot be provided up to the 1% annual exceedance probability (AEP) flood with a 35% allowance for climate change. You, as the Local Planning Authority, should determine whether or not alternative mitigation measures (such as voids) are appropriate in this instance. If alternative mitigation measures are not appropriate, planning permission should be refused due to loss of floodplain storage resulting in an increase in flood risk elsewhere, contrary to paragraphs 160 and 163 of the NPPF, policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations, adopted June 2003) and emerging policy NR1 of the Borough Local Plan 2013-2033. An increase in flood risk in this area would be particularly concerning as the application site is surrounded by existing residential dwellings.

If alternative mitigation measures, such as voids, are deemed appropriate in this instance, the second part of the flood risk exception test has still not been passed as it has not been demonstrated that flood risk will not be increased elsewhere, and we maintain our objection. We have set out the reasons why below:

- Level for level compensation
The level for level element of the floodplain compensation scheme should be revised to take into account the different 1% AEP plus a 35% allowance for climate change flood levels across the site (as explained above). This would identify, and allow mitigation to be provided for, any loss of floodplain storage in the higher order flood events (levels of up to 27.91 m AOD in some locations) that has not yet been taken into account.
- Use of voids
The applicant explains that the voids will be constructed with the opening up to the 1% AEP 'plus additional relevant climate change allowance', and be 1 metre wide with an opening every five metres. The plan referenced in Appendix C of

this addendum letter (drawing number ZZ-SE-DR-A-XX-003, revision P1, dated 29 August 2019) shows the typical section through the void and references the 1% AEP plus a 35% allowance for climate change flood level to be 24.56 m AOD. This is not the correct 1% AEP with a 35% allowance for climate change flood level/s. As the correct climate change flood level/s is higher than 24.56 m AOD, the voids would not provide sufficient mitigation and there would be a loss of floodplain storage as a result of the proposed development. Further, the voids would not be providing direct mitigation for the loss of floodplain storage in the higher order flood events not mitigated for through level for level compensation (when flood levels exceed 24.66 m AOD).

Therefore drawing number ZZ-SE-DR-A-XX-003 and any relevant elevational drawings should be updated to show that the underside of the void is to be set at the appropriate 1% AEP plus a 35% allowance for climate change flood level/s.

- Floodplain compensation proposed in residential gardens

We have previously highlighted that we have concerns with regard to floodplain compensation across future occupier's gardens. Not only for the reason of potential impedance of flows but future structures that could be installed under permitted development rights all have the potential to impede flow or reduce floodplain storage. The applicant has explained they consider they can address floodplain compensation being provided in occupier's gardens by the use of planning conditions and an Article 4 direction. They have explained that there would be regular inspection of levels and structures carried out by the management company over the lifetime of the development. Having flood mitigation in this way may result in a breakdown of the effectiveness of the mitigation over the lifetime of the development. It could also result in the need for the council to be involved with potential future enforcement to restore flood mitigation for the development.

It is for you, as the Local Planning Authority, to determine if floodplain compensation in residential gardens is appropriate and enforceable for the lifetime of the development. Please see our letter dated 8 February 2021 for more information on this issue.

- Proposed raised road and proposed culvert under the proposed new road

In previous correspondence we have raised concern with the proposed raised road across the eastern side of the developable site. The applicant has proposed to include a culvert through the road for hydraulic connectivity to the compensation area on the other side of the access road. We have previously made comment about raised embankments across the floodplain and the potential to impede flood flow. It has not been demonstrated that the proposed culvert would allow for the free flow of flood water through the raised road, which is required to prevent an increase in flood risk elsewhere.

Typically we would require these types of structures to be robustly assessed to establish whether they pose any offsite detriment. The applicant has undertaken a calculation of the void opening. However, the updated Thames flood model is a 1D/ 2D flood model so the structure should be tested in the model to assess whether the structure would increase risk offsite up to the 1% AEP with a 35% allowance for climate change flood event. If the applicant were to undertake this assessment the grid resolution in the model would need to be reduced to a 5m grid.

- Boundary treatments

The boundary treatment plans shows boundary walls and fencing throughout the development and across areas that are proposed for floodplain compensation. Walls and fencing are proposed between proposed dwellings and to divide plots, which has the potential to impede flood flow across the development site. The applicant explains that permeable fencing will be installed across the site. However, no details on this have been supplied. Moreover, when examining the submitted elevations, the fencing and walls do not appear to be permeable in design.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. Please see our letter dated 8 February 2021 for more information.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Advice to Planning Authority

Safe access and egress

Please be aware that Appendix J in the FRA shows offsite level analysis for the access route. This shows flood water depths along the proposed route.

Please see our letter dated 8 February 2021 for more information on this and our other advisory comments.

Final comments

Once again, thank you for contacting us. Our comments are based on our available records and the information as submitted to us. Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us in line with the Town and Country Planning (Consultation) (England) Direction 2021.

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Yours sincerely

Ms Helen Sanderson
Planning Advisor

Direct dial 020 771 40595

Direct e-mail Planning_THM@environment-agency.gov.uk

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