

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

MAIDENHEAD DEVELOPMENT CONTROL PANEL

5 July 2017

Item: 1

Application No.:	16/01292/FULL
Location:	Hedsor Cottage 11 Maidenhead Court Park Maidenhead SL6 8HN
Proposal:	Erection of detached dwelling following demolition of existing garage and annexe
Applicant:	Mrs Hock
Agent:	Not Applicable
Parish/Ward:	/Maidenhead Riverside Ward

If you have a question about this report, please contact: Antonia Liu on 01628 796697 or at antonia.liu@rbwm.gov.uk

1. SUMMARY

- 1.1 The Local Planning Authority took the decision to grant planning permission for the erection of a detached dwelling following the demolition of the existing garage and annex and creation of a new vehicular access at Hedsor Cottage on 6 July 2016. A Judicial Review was undertaken and the application has been reverted back to the Council for determination following a Consent Order, dated 7 March 2017, to quash the grant of planning permission as the Council failed to apply relevant paragraphs 101 – 103 of the NPPF in determining the planning application. The Consent Order is available on the Council's website.
- 1.2 The submitted Flood Risk Assessment fails to properly take into account climate change when assessing which Flood Zone the site falls within. The LPA is therefore unable to assess whether the Sequential Test is met, and if passed whether the Exception Test is required and whether the proposal meets the requirements of paragraph 103 of the NPPF.
- 1.3 The proposal is considered acceptable in terms of impact on character and appearance, impact on neighbours, and highway safety and parking.

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

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| 1. | The submitted Flood Risk Assessment does not provide a suitable basis for an assessment of flood risk arising from the proposed development as it fails to properly take into account climate change. The proposal is therefore contrary paragraphs 101, 102 and 103 of the NPPF and Local Plan policy F1. |
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2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Diment due to concerns over bulk, scale and positioning of the development.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 This application comprises of a large plot containing a large two-storey detached dwelling, which is set further back into the plot than the adjacent houses, with a single-storey triple garage and adjoining outbuilding sited to the front of the main house. In accordance with flooding data provided by the Environment Agency (EA) and the Council's Strategic Flood Risk Assessment (SFRA), the site is situated within a residential area which is located in Flood Zone 2 and 3a. This designation does not take into account climate change allowances. The boundary of Maidenhead Settlement cuts across the rear garden of the site, with Green Belt to the west.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/00609/FULL	Part two part single storey rear extension with new front porch and associated alterations	Approved – 07.04.2014
14/03999/FULL	Erection of detached dwelling following demolition of existing garage and annexe and creation of new vehicular access	Refused – 11.03.2015
93/00857/FULL	Change of use of agricultural land to residential	Approved – 31.03.1993
93/00854/FULL	Detached single storey building to house swimming pool	Refused – 28.12.1993
92/00795/FULL	Single storey extension to garage to form garden and pool store	Approved – 01.04.1992
91/00869/FULL	Pitched tiled roof to existing garage	Approved – 31.03.1991
87/00874/FULL	Erection of two storey front extension	Approved – 10.11.1987

- 4.1 The proposal for a new detached dwelling following the subdivision of the existing plot and demolition of the existing garage and annex is the same as the previously refused scheme under 14/03999/FULL, which was refused on the grounds that it would lead to an unacceptable risk to people in the event of a flood.
- 4.2 This application was granted planning permission, on the basis that flood mitigation can be sufficiently provided and local knowledge is that there is not a flood issue in this area and the maps held by the Environment Agency are wrong having not been updated to reflect the Jubilee River effect. The application has been reverted back to the Council for determination following a Consent Order (7 March 2017) to quash the grant of planning permission as relevant paragraphs 101 – 103 of the NPPF were not correctly applied in determining the planning application. The application has to now be freshly considered.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections 6, 7 and 10.
- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

Royal Borough Local Plan

Within settlement area	Highways and Parking	Flood Risk	Trees
DG1, H10, H11	P4, T5	F1	N6

Borough Local Plan: Submission Version

Within settlement area	Flood Risk
SP1, SP2, SP3, HO5, IF1	NR1

Other Local Strategies or Publications

- 5.3 Other Strategies or publications relevant to the proposal are:
- RBWM Parking Strategy - view at:
http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Principle of Development
- ii Flood Risk
- iii Character of the Area
- iv Impact on Neighbours and Future Occupiers
- v Highway Safety and Parking
- vi Other Material Considerations

Principle of Development

6.2 The site is situated within an established residential area within Maidenhead. Development in such areas is acceptable in principle provided that the provisions of the NPPF and Local Plan policies can be satisfied.

Flood Risk

6.3 The submitted Flood Risk Assessment (FRA) and addendum does not comply with the requirements as set out in the NPPF and National Planning Practice Guidance (NPPG) as it fails to take into account climate change when assessing which Flood Zone the site falls within. It therefore does not provide a suitable basis for an assessment to be made on the flood risk arising from the proposed development.

6.4 Furthermore, the LPA is unable to assess whether the Sequential Test is met, and if passed whether the Exception Test is required and whether the proposal meets the requirements of paragraph 103 of the NPPF.

6.5 In the absence of an acceptable FRA the proposal is contrary to paragraphs 101, 102 and 103 of the NPPF and Local Plan policy F1.

Character of the Area

6.6 Maidenhead Court Park is an attractive residential area which is characterised by detached dwellings set within relatively modest to large plots with landscaped frontages which gives a spacious, verdant appearance. In terms of the style of dwellings there is a mixture of bungalows, two storey dwellings to two and a half storey dwellings ranging from Edwardian style to later twentieth century suburban housing.

6.7 The left side of Maidenhead Court Park from No's 3 to 17 is sited approximately line within one another with the exception of Hedsor Place and Redlands Cottage which are set significantly further back from the road. The new dwelling would be sited fronting Maidenhead Court Park to the front of Hedsor Place and in the gap between no. 9 and no. 13 Maidenhead Court Park, approximately in line with these two adjacent properties. While the proposal would result in a tandem development, due to its siting to the front it is considered that the new house would read as a continuation of the prevailing building line along this section of Maidenhead Court Park and therefore acceptable in this case. Following subdivision, the resultant plot for the existing house at Hedsor Place would still be large in size and comparable with plot within the locality. The plot for the proposed house would be smaller, but the house is not considered to be cramped being offset from the boundaries, with over 150sqm of amenity space to the rear and there would be sufficient space to accommodate soft landscaping along its frontage. If recommended for approval a landscaping scheme could be secured by condition to mitigate the loss of existing greenery to the front of Hedsor Place and maintain the existing verdant character of the street. The space between the new house and shared flank boundary with no. 9 Maidenhead Court Park would be narrower than the prevailing gaps between buildings along this section of Maidenhead

Court Park, but it is considered that the 1.5m gap and hipped roof would maintain the sense of space between buildings and present visual terracing. The scale of the proposal and the lower eaves design is considered to result in a dwelling that sits comfortably between both the existing neighbours, which comprises of a two storey and two and half storey dwelling.

- 6.8 In terms of the design of the dwelling, it incorporates similar features to that of Hedsor Place with the roof design and double fronted gables.
- 6.9 For these reasons the proposed dwelling is considered to be of a high quality design that would be in keeping with the character and appearance of the area in accordance with Local Plan Policies DG1, H10 and H11 and the provisions of the NPPF in this respect.

Impact on Neighbouring Amenity and Future Occupiers

- 6.10 The proposed dwelling would be sited approximately in-line with no. 9 and 13 Maidenhead Court Park and would not extend significantly further forwards or rearwards of these adjoining houses. It is therefore not considered to result in a significant loss of light to or visual intrusion when viewed from their rear and front windows or neighbouring gardens. It is noted that no. 9 Maidenhead Court has a number of ground-floor and first-floor side windows on the northwest elevation. On the ground floor there is a window serving a kitchen, but as this kitchen window is north facing and not the only source of natural light or outlook with another kitchen window on the southwest elevation, this relationship is considered acceptable. The remaining ground floor windows serve non-habitable rooms. With regards to the first-floor, the proposal dwelling would not intrude through a 25 degree taken from the mid-point of these side-facing windows and therefore unlikely to result in an undue loss of light or visual overbearing to the detriment of neighbouring amenity. With regards to no. 13 Maidenhead Court Park there are no side window to the main house on the southeast elevation, with only a high level, ground floor window serving the adjoining garage. As this is a non-habitable room, the proposal is not considered to result in undue harm to neighbouring amenity in this respect.
- 6.11 A first floor window is proposed on the southeast elevation of the proposed house which would face no. 9 Maidenhead Court Park. However, this would serve an en-suite and if it had been recommended for approval a condition could be attached to any permission granted to ensure that the window was obscurely glazed and non opening to a level of 1.7m above finished floor level. Windows to the front and rear elevation are not considered to result in an undue loss of privacy which materially differ or add to existing levels of overlooking. Concerns have been raised over loss of privacy from a proposed balcony, but no balcony is shown on the proposed floor plan or elevations (drawing ref: D1418/PL02 B and D1418/PL03 A). A distance of 24 metres would be maintained between Hedsor Place and the proposed dwelling from front to rear which would be considered sufficient to prevent any issues in respect to overlooking and loss of privacy.
- 6.12 The proposed dwelling would be of an appropriate size, there would be sufficient levels of natural light to serve the main living area and an appropriate level of private amenity size. It is considered that the proposed redevelopment would provide a good living environment for future occupiers.
- 6.13 Concerns were also raised over undue levels of smell from the proposal given its proximity to the neighbouring house at no. 9, but given that it is one unit and its residential nature it is not considered that the proposal would generate unreasonable levels of smell or other disturbances such as noise. Overall, the proposal is considered to meet the aims and objectives Core Planning Principle 4 of the NPPF.

Highway Safety and Parking

- 6.14 Maidenhead Court Park is an adopted residential street which is approximately 6.0m wide and subject to a local 30mph speed restriction. There is a 2.2m wide footway adjacent to the proposed access point and a 2.0m wide verge and 1.3m wide footway opposite. The existing dwelling (Hedsor Place) has an in-out drive arrangement. It is proposed to utilise the centrally located access point to serve the new development and construct a new access further to the north in order to serve Hedsor Place. The proposed access to the existing and proposed house

would achieve stopping sight distances of 2.4 x 43 metres each way, in compliance with the principles as set out in Manual for Streets, and so there are no objections in terms of visibility. The redundant southernmost access point would need to be stopped up for use by vehicles and the adjoining footway/verge crossover reinstated, which could be secured by condition.

- 6.15 The proposed car parking layout for the proposed house would provide adequate parking and turning facilities for two cars which would meet the Council's adopted Parking Standards for a 3-bed house. In addition, while the proposal involves the loss of garages for Hedsor Place, sufficient parking and turning would be retained for the existing 4-bed dwelling to the front of the house.
- 6.16 The proposed development would result in an increase in 6-12 vehicle movements per day, but would not be substantial enough to have a negative impact on highway safety and the local road network.
- 6.17 Overall, the proposal is considered to meet the aims and objectives of Local Plan policy P4 and T5.

Other Material Considerations

Trees

- 6.18 The proposal would result in the loss of a tree, but it is not protected and not considered to contribute significantly to visual amenity. As such there are no objections to its loss.

Contaminated Land

- 6.19 The site is located on old gravel pit however there is no objection to the development subject to a condition if minded to approve in the event that unexpected soil contamination is found after development has begun.

Precedents

- 6.20 Concerns have been raised over the lawful status of the garage and annex and the precedence of build development in this location. Attention has also been drawn by local residents to planning applications within the locality to support their objection. The lawfulness of the garage and annex is a separate issue to this application, and the proposed house is assessed on its own merits.

Housing Land Supply

- 6.21 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 applications for new homes 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 five-year supply of deliverable housing sites.
- 6.22 It is acknowledged that this scheme would make a contribution to the Borough's housing stock. However having regard to the 'tilted' balance requested by paragraph 14 of the NPPF it is the view of the Local Planning Authority that that the socio-economic benefits of the additional dwelling would be significantly and demonstrably outweighed by the adverse impacts arising from the scheme proposed, in particular flood risk for the reasons in paragraph 6.3 – 6.12.

Borough Local Plan: Submission Version

- 6.23 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.

7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 7.1 In line with the Council's Charging Schedule the proposed development would now be CIL liable. The required CIL payment for the proposed development would be £100 per sqm based upon the chargeable residential floor area.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

4 occupiers were originally notified directly of the application. The planning officer posted a statutory notice advertising the application at the site on 2.06.2016.

17 letters of objection were originally received including 3 letters reiterating concerns, summarised as:

Comment		Where in the report this is considered
1.	Out of character within the streetscene and wider locality due to the smaller plot size following subdivision; inconsistent siting with the uniform building line / there is no consistent building line and therefore attempts to unify it would be harmful; excessive bulk and poor design of the house; incongruous spacing between building; and lack of front garden with little space for planting contrary to the existing verdant character.	Para. 6.6 – 6.9
2.	Overdevelopment of the site resulting in a cramped development. Density is too high and out of keeping with low density locality.	Para. 6.7
3.	Increase in flood risk, no safe access or egress, application has previously been refused on this basis.	Para. 6.3 – 6.5
4.	Dominant and overbearing, overlook to neighbouring property, smells from new residential property would result in harm to neighbouring amenity	Para. 6.10 – 6.13
5.	Loss of a tree, loss of existing greenery / vegetation to the front of Hedsor Place.	Para. 6.7 and 6.18
6.	Sited on an old gravel pit, raising concerns over land contamination.	Para. 6.19
7.	Additional drive and insufficient parking, resulting in on-street parking, would be detrimental to character and highway safety.	Para. 6.14 – 6.17
8.	Need for housing - local policies should not be disregarded in light of NPPF. Development would not make a significant contribution to housing need. Maidenhead is already building housing to meet demand.	Para. 6.21 – 6.22
9.	Inaccurate streetscene, and objector has produced an alternative streetscene for consideration.	Officers do not rely on streetscenes in assessing the merits of a proposal.
10.	Loss of view of Hedsor Place which is an attractive building.	Not a material planning consideration

11.	Precedent for tandem development, planning applications for similar development has been refused.	Each application must be considered on its own merits
12.	Garages and annex are not authorised, and the garage and annex should not set a precedent for build development in this location.	Each application must be considered on its own merits
13.	Issues relating to party wall, damage neighbouring properties / foundations.	Not a material planning consideration

Following the Consent Order, 15 occupiers were re-notified. 23 letters were received. Below are additional concerns not covered by summary above:

Comment		Where in the report this is considered
1.	Application should not have been allowed to continue after the High Court Judgement.	The application has been reverted back to the Council for determination by the High Court. The application has not been withdrawn by the applicant, and the application does not fall under any of the criteria outlined in Section 70B of the Town and Country Planning Act 1990 (as amended).
2.	High Court agrees that the proposal is inappropriate development in a flood plain and out of keeping with the environment	A judicial review is the process of challenging the lawfulness of decisions of public authorities, and was not a comment on the merits of the decision.
3.	The SHLAA (Appendix D) dates from 2014 and only provides an illustration of some of the available sites at the time of writing. On this basis the Sequential Test has not been met.	The Sequential Test has not been met on the basis of paragraph 6.3 – 6.5.
4.	As a result of higher finished floor levels, the proposed building would be taller than neighbouring houses which would be overbearing and overly dominant.	No external changes proposed to the proposed dwelling as originally submitted.
5.	Inadequate re-consultation.	Statutory consultation has been undertaken.

Other Consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	Objections to the proposal in the absence of an acceptable FRA in accordance with paragraphs 102 and 103 of the National Planning Policy Framework (NPPF). In particular it 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	Para. 6.3

	<p>climate change caused by the proposed development and if so that it can be mitigated. As there will be an increase in built footprint on site, floodplain compensation must be provided on a level for level, volume for volume basis. This is necessary to prevent the new development reducing flood plain storage and displacing flood water.</p> <p>It is for the Local Authority to determine if the Sequential Test has to be applied and whether there are other sites available at lower flood risk.</p> <p>On the understanding that the proposal development has passed the Sequential Test, the proposal should be appropriate flood resilient and resistant. The applicant should demonstrate that a satisfactory route of safe access and egress is achievable.</p> <p>In accordance with paragraphs 101 to 104 of the National Planning Policy Framework (NPPF), you must ensure that the 'development is appropriately flood resilient and resistant, including safe access and escape routes where required' This is on the understanding that you have concluded that the proposed development has passed the flood risk sequential test.</p>	
Maidenhead Civic Society	Harm to streetscene, obscuring view of attractive existing house, break in building line, tandem development.	Para. 6.6 - 9
Environmental Protection	No objection subject to condition related contaminated remediation in the event that unexpected soil contamination is found after development has begun, and informatives relating to dust and smoke control and hours of construction.	Para. 6.19
Local Highway Authority	<p>No objection subject to the following conditions:</p> <ol style="list-style-type: none"> 1. HA03A (new & altered access to be provided as per approved drawing numbered D1418/PL01) 2. HA9A (parking/turning layout as per Drwg. No. D1418/PL01) 3. The existing southernmost access point to the site shall be stopped up and abandoned for use by vehicles immediately the new access arrangements being first brought into use. The adjoining footway and verge shall be reinstated <p>In addition, it is recommended that the following highway informatives be attached to any planning consent:</p> <ol style="list-style-type: none"> 1. HI04 (highway licence for new northern access; central access alterations and stopping up of southern access works) 2. HI06 (recovery of costs re: any damage caused to footways/verges) 3. HI07 (recovery of costs re: any damage caused to the public highway) 	Para. 6.14 – 6.17

9. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan
- Appendix B – Site Layout
- Appendix C – Proposed Plans and Elevations

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

In this case the issues have not been successfully resolved.

10. RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The Flood Risk Assessment does not provide a suitable basis for an assessment of flood risk arising from the proposed development as it fails to properly take into climate change. The proposal is therefore contrary paragraphs 101, 102 and 103 of the National Planning Policy Framework (2012) and policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations June 2003).