

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

MAIDENHEAD DEVELOPMENT CONTROL PANEL

5 July 2017

Item: 4

Application No.:	17/00817/FULL
Location:	Kingfisher Cottage Spade Oak Reach Cookham Maidenhead SL6 9RQ
Proposal:	Replacement dwelling following demolition of existing dwelling
Applicant:	Mr Backshall
Agent:	Mr Jake Collinge
Parish/Ward:	Cookham Parish/Bisham And Cookham 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 proposal is for a replacement dwelling, which would be materially larger than the existing house to be demolished. It therefore represents inappropriate development which, by definition, is harmful to the Green Belt. Due to its scale, height, mass and bulk it would also result in the actual loss of openness across the site representing an intrusion/encroachment into the countryside which would conflict with one of the main purposes of the Green Belt namely 'to assist in safeguarding the countryside from encroachment'. No case for VSC has been put forward by the applicant and there is no obvious VSC in favour of the proposal.
- 1.2 The proposal is considered to pass the Sequential Test, but fails the Exception Test as the scheme proposes the use of voids to mitigate the flood risk. As the planning authority is unable to ensure that the voids beneath the building would not be obstructed by domestic effects or by flood debris, the flow of flood water is likely to be impeded and /or the capacity of the flood plain to store flood water is likely to be reduced, leading to an increase in flood risk elsewhere. The proposal also fails to demonstrate a wider sustainability benefit to the community that outweigh flood risk.
- 1.3 There is no harm to character of the area, amenity, highway safety and an acceptable level of parking has been provided.

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. | The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt, would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment', and would be harmful to actual openness of the Green Belt. No Very Special Circumstances have been demonstrated that clearly overcomes the harm to the Green Belt and any other harm. |
| 2. | The proposal does not pass the Exception Test as it has not been demonstrated to the satisfaction of the Local Planning Authority that it will lead to wider sustainability benefits to the community that outweigh flood risk nor has it been demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere through the use of voids as flood compensation. |

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Saunders due to absence of local objections from the Cookham Parish Council and others.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

3.1 The site is currently occupied by a bungalow which is set back from the edge of the River Thames. The property forms part of a row of residential development along Spade Oak Reach where properties vary in age, design and size. The River Thames is to the north-west and open fields lie to the south and south-east of the site, beyond that is Winter Hill. The site lies in the Green Belt, Flood Zone 3, in an Area of Special Landscape Importance and within the Setting of the River Thames.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

4.1 The proposal is for the erection of a contemporary style, detached, two-storey house raised approximately 1.9m above the existing ground level following the demolition of the existing bungalow. The application site shares a vehicular access from Spade Oak Reach with the neighbouring property, Linger In.

Ref.	Description	Decision and Date
13/02260/FULL	Proposed demolition of existing dwelling and erection of a replacement 3 bedroom detached dwelling	Withdrawn - 23.09.2013
16/01449/FULL	Replacement dwelling	Withdrawn - 04.11.2016
16/03986/PDXL	Single storey rear extension no greater than 8.0m depth, 3.2m high and an eaves height of 3.2m	Prior Approval Not Required - 30.01.2017
17/00204/CPD	Certificate of lawfulness to determine whether the proposed side extensions are lawful.	Permitted - 24.02.2017

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 National Planning Policy Framework (NPPF) Sections 6, 7, 9, 10 and 11

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

Royal Borough Local Plan

	Highways and Parking
GB1, GB2, GB4, DG1, N1, N2, F1	P4, T5

These policies can be found at

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

Borough Local Plan: Submission Version

SP1, SP2, SP3, SP4, SP5, NR1, IF1

Supplementary planning documents

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

- Cookham Village Design Statement

More information on these documents can be found at:

Other Local Strategies or Publications

5.4 Other Strategies or publications relevant to the proposal are:

- Interpretation of F1
- Landscape Character Assessment
- Parking Strategy

More information on these documents can be found at:

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 Green Belt
- ii Flood Risk
- iii Design and Appearance
- iv Highway Safety and Parking
- v Impact on Neighbouring Amenity
- vi Other Material Considerations
- vii Planning Balance and the Case of Very Special Circumstances

Green Belt

6.2 The site lies within the Green Belt with the fundamental aim to keep land permanently open as set out in paragraph 79 of the NPPF. Paragraph 89 of the NPPF indicates that the construction of new buildings is inappropriate development in Green Belt with some exceptions. One of the exceptions include the replacement of a building provided that the new building is in the same use and not materially larger than the one it replaces. Local Plan Policy GB1 is largely in compliance with the NPPF stating that residential development may be appropriate development in accordance with GB3 which states a general presumption against proposals for residential dwellings except for proposals relating one-for-one replacement of an existing dwelling which is not materially larger.

6.3 In this case the proposal is for a replacement dwelling, following the demolition of the existing. Therefore, the key question is whether the proposed dwelling is materially larger than the one it replaces. The original dwelling measures approximately 95sqm in floorspace while the proposed dwelling measures approximately 250sqm, which equates to an approximate 163% percentage increase from the original. Furthermore, while floorspace is a guiding factor it is also necessary to consider height, form, bulk and mass. In this case the proposed dwelling would be a maximum height of 8.4m in comparison to 5.2m for the existing, 17m in depth compared to 8.2m, and 13m in width compared to 12m. Therefore it is considered that the proposal would result in a materially larger dwelling than the one it replaces and therefore inappropriate development in the Green Belt.

6.4 Paragraph 79 of the NPPF states the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belt are their openness and their permanence, while Local Plan policy GB2 states that permission will not be granted for development if it would have a greater impact on the openness of the Green Belt or purposes of including land in the Green Belt. As inappropriate development in the Green Belt, the

proposal is by definition substantially harmful to its openness and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. In terms of actual openness the proposal is considered to be materially larger than the existing house on the site. Furthermore, together with the increase in width and depth, the proposed house would erode the opportunity for views around it and between the dwelling and the neighbouring properties. It is therefore considered that there would be a reduction in openness.

- 6.5 It is acknowledged that the existing dwelling could be extended under permitted development by a further 128sqm as demonstrated by proposals under 16/03986/PDXL and 17/00204/CPD. Given the modest size of the existing dwelling, it is considered that this fall-back position has a reasonable expectation of being implemented should this application fall. It is also noted that 3 outbuildings would be demolished as part of the proposal, which equates to approximately 30sqm. However, while floor area is a guiding factor, the proposed dwelling would be a maximum of 8.4 metres in height compared to the existing house which is a maximum of 6.5 metres in height. The proposals under 16/03986/PDXL and 17/00204/CPD would be single storey and measure 3.2m in height. As such, the mass and bulk of the proposed house would be more substantial than the existing house and additional under 16/03986/PDXL and 17/00204/CPD which and therefore would have a greater adverse impact on the Green Belt's openness. The fallback position is therefore given limited weight as consideration weighing in favour of the proposal.
- 6.6 By reason of inappropriateness, encroachment into the countryside and loss of openness in accordance with paragraph 88 of the NPPF, weight against the proposed development is substantial. Permission for such development will not be given except in Very Special Circumstances (VSC). VSC to justify the development will not exist unless the harm by reason of inappropriate and any other harm is clearly outweighed by other considerations. The case of VSC is assessed in paragraphs 6.22 – 6.24.

Flood Risk

- 6.7 The proposal is sited in Flood Zone 3b where there is a high risk of flooding and the NPPF requires the following tests to be applied.

Sequential Test

- 6.8 Paragraph 101 of the NPPF aims to steer new development to areas with a lower probability of flooding through a Sequential Test. As the proposal is for the demolition of the existing house and erection of a replacement dwelling, it is considered that the Sequential Test is passed 'de facto' as finding an alternative site is not likely to be a realistic option.

Exception Test

- 6.9 Paragraph 102 of the NPPF states that if it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. It is noted that Table 3 of the NPPG indicates that more vulnerable development is inappropriate in Flood Zone 3b and should not be permitted. However, as the proposal is for a replacement dwelling and would not introduce development where there is currently none, it is considered that the application of the Exception Test would be appropriate in this particular instance. This has been agreed by the Environment Agency (EA). To pass the Exception Test the development must provide wider sustainability benefits to the community that outweigh flood risk and the applicant should demonstrate, through a site specific Flood Risk Assessment (FRA) that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and where possible will reduce flood risk overall.
- 6.10 The applicant is proposing an energy efficient and sustainable development, utilising sustainable materials during the construction process where possible and incorporating renewable energy generation and power storage techniques with the intention of the property being self-sustaining as well as feeding power back to the grid. It is acknowledged that this would be a betterment in

comparison to the existing dwelling. However, the benefits to the community are not of such substance as to outweigh the flood risk of the site.

- 6.11 In relation to being safe for its lifetime, the FRA originally submitted failed to properly take into account the effect of climate change when assessing flood risk, there were inconsistencies with the FRA, and the submitted drawings did not demonstrate the proposed development will be constructed in accordance with the FRA. A revised FRA and section drawing was subsequently submitted to address these deficiencies. The revised FRA fails to demonstrate safe access or egress for the existing dwelling but it is noted that there is no safe access or egress from the existing dwelling and so it is not considered reasonable to refuse the proposal on this basis. It is, however, considered reasonable that applicants investigate how risk associated with flood risk can be reduced where possible. In this respect, the finished floor levels of the development are required to be set 300mm above the 1% annual probability flood level with an appropriate allowance for climate change. The revised FRA and section demonstrates that the finished floor levels of the development will be set no lower than 28.11m above Ordnance Datum, which is considered acceptable in this respect. In terms of floodplain compensation the FRA states that the proposed building would be raised on pier foundations with a floodable void space beneath for a 1 in 100 year plus climate change flood event. However, the supporting text to Policy F1 of the Local Plan advises that the use of pier foundations (voids) will not be acceptable as a means of overcoming an objection to a proposal on the grounds of loss of flood storage capacity on the basis any opening may be prone to being blocked by debris which would impede the free flow of water. As such, it has not been demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. The proposal therefore fails the Exception Test, and accordingly the proposal is contrary to paragraph 102 of the NPPF.

Flood Risk Assessment

- 6.12 Following a Sequential Test, and if required the Exception Test, paragraph 103 of the NPPF states that a Local Planning Authority should, informed by a site-specific FRA, ensure proposal demonstrates that the most vulnerable developments within the site is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location, and development is appropriately flood resilient and resistant, any residual risk can be safety managed and priority is given to sustainable drainage (SUDS). The whole of the site falls within Flood Zone 3b and therefore cannot be located in an area within the site at a lower flood risk. Flood resilient and resistant measures are covered in paragraph 6.12. As such, it is considered that the proposal is contrary to paragraph 103 in addition to paragraph 102 of the NPPF. With regard to residual risk the FRA states that an evacuation plan should be prepared, while SUDS should include sealed below ground systems such as modular storage or rainwater harvesting and flow control designed to restrict runoff to watercourses. Given the underlying soils and potential high groundwater levels, infiltration techniques will likely not be feasible.

Design and Appearance

- 6.13 The site lies within an Area of Special Landscape Importance, the Setting of the River Thames, and the Council's Landscape Character Assessment identified Spade Oak Reach as an area of 'Settled Farmed Floodplain' with the river edge having a diverse and natural character which is often quiet and remote in character. Paragraph 10.2 of the Cookham Village Design Statement (VDS) states that the properties of Spade Oak Reach, which has extended from the historic core of the Cookham settlements, were originally weekend retreats for boat owners and of simple build. This acknowledged their seasonable use and flood risk. To an extent these have now been replaced by more durable homes. The Landscape Character Assessment states that the character of these developments of these houses is largely unsympathetic to the local vernacular and leads to a chaotic composition of materials and buildings styles. In general it is considered that the dwellings on Spade Oak Reach are mixed in appearance, but still on the whole modest in size. The Cookham VDS advises that replacement development should in general avoid having a greater impact on the riverside environment than the existing and key consideration should be scale and bulk of the proposal. In assessing the suitability, regard should be had to the size of the existing building, the nature of the surrounding area including the character of nearby properties.

- 6.14 The Landscape Character Assessment notes the openness of the river in Cock Marsh, where Spade Oak is located. The Cookham VDS further states that riverside properties should not be overbearing within their plot and the retention of views between properties are particularly important to the character of the area. To retain these views the Cookham VDS recommends that a minimum of 1.5m or one sixth of the plot width to each side of a property, whichever is greater, should be kept open as a minimum. Properties should also be set well back in their plots where possible, providing for generous green spaces between the river and the property.
- 6.15 In this context, while larger than the existing dwelling, it is considered that the scale, bulk and mass of the proposed house would not overly dominant in the street and riverside scene. The proposal is of a contemporary style incorporating large glazed sections set in walls to the front (river) and rear (Spade Oak) with larch cladding to all elevations. The first floor accommodation has been set into the roof with Velux roof lights providing daylight. It is considered this simple contemporary approach to the design is sufficiently in keeping with the character of Spade Oak, the River Thames and wider locality. In relation to views between properties, the proposal is offset from the flank boundaries by 1.5m to the Niche and 8m to Linger In, and a 10m set back from the riverside. There proposal, therefore accords with the Council's Landscape Character Assessment, Cookham Village Design Statement, and Local Plan policies DG1, N1 and N2.

Highway Safety and Parking

- 6.16 Spade Oak is a private Road that is accessible off Winter Hill. In relation to parking a 4 bedroom dwelling would require the need for 3 parking spaces: whilst no plan has been submitted to show how this would be laid out or how it relates to the shared access arrangements with Linger In it is considered that there is sufficient room on site to accommodate this number of vehicles. Should permission be granted then this could be covered by a condition requiring a plan to be submitted; any hardstanding to be laid should be permeable material.
- 6.17 In terms of cumulative trips, given the proposal is for a replacement dwelling it is unlikely that there would be a significant change in vehicular activity. It is therefore considered that there would not be any significant impact on local highway infrastructure to warrant refusal.

Impact on Neighbouring Amenity

- 6.18 Core Principle 4 of the NPPF seeks to secure a good standard of amenity for all existing and future occupants of buildings.
- 6.19 Due to the form, scale and offset from the shared boundary of the proposal, it is not considered to result in undue visual intrusion or loss light to 'Linger In'. Due to the height of the ground floor, the proposed front door and two windows would be at least 2.8m above the ground floor, facing the 'front' garden of 'Linger In' and view would be possible over the fence along the shared boundary, which is approximately 1.8m in height. However, this neighbouring garden is relatively open to Spade Oak with limited privacy as a result. Furthermore, the landing deck at top of the stairway is limited in size so would not serve as usable amenity space and it also noted that one of these windows would serve a utility room (a non-habitable room) while the other would be a secondary window to the kitchen. As such, the proposal is not considered to result in undue loss of privacy to this neighbouring dwelling. It is also noted that the proposed obscure glazing to limit views into Linger In, would not unduly compromise the living conditions of the proposed dwelling. Therefore, if the scheme were considered acceptable obscure glazing to these windows can be secured by condition.
- 6.20 The proposed dwelling would be sited approximately in line with 'The Niche' and would not project significantly forwards or rearwards of the existing dwelling at this adjoining site. It would extend across flank windows on the east elevation of 'The Niche' but these comprise of a small, high-level window to a Shower Room at first floor level, and a window serving a study on the ground floor. The shower room is considered to be non-habitable rooms, while the study has a front facing window. As such, the proposal is not considered to result in undue loss of the visual intrusion or loss of light to the detriment of neighbouring amenity. In relation to privacy, the study

window is located such that there is inter-looking between it and the proposed side window to bedroom 2. However, bedroom 2 would also have a front facing windows. If the scheme were considered acceptable a condition could be imposed to seek obscure glazing to the secondary window to bedroom 2 located in the side (west) elevation to avoid a loss of privacy.

Other Material Considerations

Borough Local Plan: Submission Version

- 6.21 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.

Planning Balance and the Case of Very Special Circumstances

- 6.22 The NPPF states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances (VSC). Therefore the main issue is whether by reason of inappropriateness and any other harm is clearly outweighed by other considerations which would amount to very special circumstances necessary to justify the development.
- 6.23 No case of VSC has been put forward and no case is apparent. A comparison of the application scheme against other developments in the Green Belt within the Borough has been included within the Design and Access Statement, but each application has to be assessed on its own merits and what has been consented previously is not a precursor for proposals which do not comply with the Development Plan or National Planning Policy. To accept this as VSC as such would be to acknowledge that a precedent may have been set generally for replacement dwellings which can be materially larger than the original dwelling without making a case for VSC and therefore weaken local policies designed to protect the Green Belt.
- 6.24 The NPPF requires a balancing exercise of benefits against harm. Substantial weight is given against the development by reason of its inappropriateness, conflict with the purpose of the Green Belt, and harm to openness. Significant weight is also given against the proposal in terms of flood risk through its failure to pass the Exception Test. There is no harm to character, amenity and an acceptable level of parking provision and no harm to highway safety, but compliance with Local Plan policies DG1, P4 and T5 is a requirement and would have to be met unless there are material considerations otherwise. On balance, the proposal would result in substantial and demonstrable harm that is not outweighed by its benefits.

7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 7.1 The application proposes a new residential development and therefore would be liable for a Community Infrastructure Levy (CIL) contribution. The required CIL payment for the proposed development would be based on the net increase of floorspace at a chargeable rate of £240 per square metre.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

2 occupiers were notified directly of the application. The planning officer posted a notice advertising the application at the site. No letters of representation have been received.

Other consultees

Consultee	Comment	Where in the report this is considered
Cookham Parish Council	No objection	Noted
Environment Agency	No objection subject to condition that the development is carried out in accordance with the revised FRA, including the mitigation, and cross section plan showing voids and flood levels.	Para. 6.7 – 6.12
Environmental Protection	No objection subject to informative relating to dust and smoke control, and hours of construction.	Noted.
Local Highway Authority	No objections to the proposal subject to a condition relating to the submission and approval of a construction management plan and parking layout.	Para. 6.16 – 6.17

9. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – Proposed plan and elevations

10. RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The proposal represents inappropriate development in the Green Belt which is by definition harmful to the Green Belt, and the applicant has failed to demonstrate that Very Special Circumstances exist that clearly outweigh the harm caused by the reason of inappropriateness and the other harm identified in subsequent reasons for refusal. The proposal is therefore contrary to paragraph 87, 88 and 89 of the National Planning Policy Framework (2012) and saved Policies GB1 and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).
- 2 Due to its scale, height, mass and bulk the proposal would result in actual loss of openness across the site to the detriment of the representing an intrusion/encroachment into the countryside which would conflict with one of the main purposes and open character of the Green Belt. This is contrary to paragraph 79 and 80 of the National Planning Policy Framework, and Policies GB1, GB2 (a), GB3, of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).
- 3 The proposal does not pass the Exception Test as it has not been demonstrated to the satisfaction of the Local Planning Authority that it will lead to wider sustainability benefits to the community that outweigh flood risk nor has it been demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere. The proposal is therefore contrary to the National Planning Policy Framework and Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations June 2003).