

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
PANEL UPDATE**

Maidenhead Panel

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| Application No.: | 18/02425/FULL |
| Location: | BCD Meetings & Incentives Ltd Bell Tower House Bell Street Maidenhead SL6 1BU |
| Proposal: | New commercial development comprising x4 storey's with basement following demolition of the existing building. |
| Applicant: | |
| Agent: | Mr Grant Corton |
| Parish/Ward: | Maidenhead Unparished/Oldfield Ward |
| If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk | |

1. SUMMARY

- 1.1 The additional information received from the applicant in respect to the surface water drainage strategy for the development (referred to in 9.19 of the main report) has been assessed by the Local Lead Flood Authority (LLFA).
- 1.2 The LLFA has no objections to the proposal subject to a condition requiring full details of the drainage system to be used in the development, supporting calculations and details of the maintenance arrangements.

It is recommended the Panel grants planning permission with the conditions listed in Section 13 of the main report with the additional condition in section 3 below.

2. ADDITIONAL INFORMATION

- 2.1 The LLFA has previously advised that from the details provided it was unclear how the water entering the proposed tanked paving system would drain to the proposed soakaway. In response to this, the applicant has advised that the car park will be surfaced with tanked permeable paving, comprising block paving laid to a clean stone base, enclosed within an impermeable geotextile membrane. The membrane will extend to the soakaway cells and will direct runoff from the car park into the cellular soakaway system, (page 6 of the report, ref 87771/6282-LMB-Bell Tower). The LLFA has confirmed this is acceptable.
- 2.2 In addition, the LLFA advised that even though the roof water outlets of catchment 2 (the southwest corner of the development) will be situated 5m from the building, the receiving infiltration device does not meet the requirements of the Building Regulations, which state that infiltration devices should not be built within 5m of a building or road or in areas of unstable land. The LLFA requested the applicant to either change the layout of the proposed infiltration device or provide a full geotechnical assessment which shows that the proposed infiltration within 5m of the foundation of the building or structure will not cause risk of instability or movement that could have an adverse impact on them.

- 2.3 In response to this second query, the applicant has advised that low depth permeable paving is proposed for catchment 2, as opposed to a traditional buried soakaway system. Roof water from the building will be piped into the paving sub base. Roof water outlets will be situated 5m from the building. An impermeable membrane is proposed between the paving system and the proposed building. Permeable paving is frequently proposed and found acceptable in close proximity to buildings and highways. Indeed permeable paving is frequently used for residential roads and driveways, (by their very nature within 5m of a building/highway). Due to the variability of the underlying soils and depth of the man-made ground, the proposed building is to be supported on piled foundations, (it is also likely that the adjacent property 6 Bell Tower House is also piled), meaning the impact of any infiltration device on the foundations would be negligible. The LLFA has also confirmed its acceptance of this response.
- 2.4 The LLFA has no objections to the proposal subject to a condition requiring full details of the drainage system to be used in the development, supporting calculations and details of the maintenance arrangements.

3. ADDITIONAL CONDITION RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 3.1 No construction shall commence (excluding demolition) until a surface water drainage scheme for the development, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. Details shall include:
- i) Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels and relevant construction details;
 - ii) Supporting calculations confirming compliance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (based on infiltration testing results determined in accordance with BRE365 if infiltration employed);
 - iii) Details of the maintenance arrangements relating to the proposed surface water drainage system, confirming who will be responsible for its maintenance and the maintenance regime to be implemented.

The surface water drainage system shall be implemented and maintained in accordance with the approved details thereafter.

Reason: To ensure compliance with the National Planning Practice Guidance and the Non-Statutory Technical Standards for Sustainable Drainage Systems, and to ensure the proposed development is safe from flooding and does not increase flood risk elsewhere.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
PANEL UPDATE**

Maidenhead Panel

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| Application No.: | 18/02677/FULL |
| Location: | Riders Country House Hotel Bath Road Littlewick Green Maidenhead SL6 3QR |
| Proposal: | Change of use from C1 (Hotel) to (C2) Residential Care Home and alterations to fenestration |
| Applicant: | Riders Carehome Ltd |
| Agent: | Mr John Stockill |
| Parish/Ward: | Hurley Parish/Hurley And Walthams Ward |

If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk

1. SUMMARY

- 1.1 Additional information and revised plans have been received from the applicant.

There is no change to the recommendation in the main report.

2. ADDITIONAL INFORMATION

- 2.1 Since the publication of the Panel agenda, including the main report for this application, the applicant has submitted additional information to seek to address the concerns raised by officers and requesting it be taken into consideration.

i) The principle of development – Green Belt Policy

- 2.2 The main report sets out that officers are concerned that it has not been sufficiently demonstrated that the proposed use would not require further development without causing harm to the Green Belt, (and/or the Littlewick Green Conservation Area). The main report notes the absence of a kitchen and staff room for example. Revised plans have now been received that show a reduction in the number of bedrooms (to 19) and the inclusion of a kitchen and staff rest area and changing facilities. While this is an improvement, given the proposed use is for a (Class C2) residential care home, it is notable that there is no storage, no laundry room, no drugs store and no assisted bathrooms etc, i.e. the type of facilities usually found in a care home.
- 2.3 The applicant has advised that the layout and accommodation meet the operator requirements and in turn the registration requirements of the Care Quality Commission (CQC) and, therefore, it will not be necessary to extend the property to provide additional facilities. However, the applicant advises that the CQC cannot confirm registration in writing until planning permission is granted.
- 2.4 In the limited time to investigate the matter, it appears from research undertaken on the CQC's website that, for registration purposes, the size, layout and design of the places in which they intend to provide care is taken into account. As this relates to the intention to provide care, it is not clear why planning permission has to be granted first for registration to take place, indeed it does not appear from the information provided that this is a requirement. In any case, what information

is provided to the CQC on the premises and facilities available may be different from what is the subject of this application. Confirmation from the applicant that the proposal meets the CQC's registration requirements does not demonstrate that the building and/or site will not require further facilities in the future.

- 2.5 The applicant points to the fact that should there be a need for extensions to, or replacement of, the care home in the future then a planning application would be subject to paragraph 145 of the NPPF, (relating to development in the Green Belt), and the Council could refuse planning permission. However, as the Council is aware, it is very difficult to resist new development necessary for vulnerable residents in situ. This is not the right way to plan and it is reasonable for the Council to be assured (with reliable evidence) at this stage, in the interests of its existing and future residents, that the proposal meets the full needs of a good quality care home.
- 2.6 The applicant has advised that should the proposal be refused on the basis that it is inappropriate development in the Green Belt, the contribution it would make towards the need for care housing for older people would outweigh the harm to the Green Belt, based on the Council's lack of a 5 year housing land supply.
- 2.7 In response, officers are satisfied that the Council can demonstrate a 5 year housing land supply. In addition, while one letter from the applicant has advised the care home is for the elderly, another later letter has advised that it will be registered as being "Accommodation for persons who require nursing or personal care". The latter can therefore include people who are not considered elderly and therefore the accommodation would not contribute to the supply of housing in the Borough. It should also be noted that the Council could not restrict the use of the care home to elderly persons only by way of a planning condition. The Town and Country Planning Use Classes Order does not distinguish between different types of care under Use Class C2 and this is supported by case law, including recent applications within the Royal Borough.
- 2.8 Members of the Panel may recall the planning history for 'Apple Hill' on the Henley Road, Hurley, which was at one time a nursing home. In 2005, planning permission was granted to more than double the amount of bedrooms to the home, (based on 'very special circumstances' relating to the financial viability of the business and the need for a rural location to provide tranquillity, open space and views important to the amenities of the residents). The permission, (05/00894), included a condition restricting the use to a care home for elderly persons only and for no other purpose within Use Class C2. The nursing home applied to relax this condition in 2006, 2007, 2008 (dismissed on appeal) and successfully won an appeal in 2014 (against the refusal of application 13/01439/FULL) to change the use of the building to a community mental health hospital. In the appeal decision letter the Inspector advised "A change of use is not to be regarded as involving development where the former use and the new use are both within the same class specified in that Order" (Use Classes Order). The Inspector found that non-compliance with the condition, i.e. its use as a mental health hospital as opposed to a nursing home for the elderly, was not development (as they are in the same Use Class) and therefore it was not inappropriate development in the Green Belt. In summary, the Inspector found that whether residents of the home were elderly or not made no material difference to the impact on the Green Belt, character of the area, amenities of nearby residents or traffic movements.
- 2.9 As it is not appropriate to impose a planning condition restricting the type of care home for use to elderly persons only, should the applicant rely on the care home being for elderly persons which would enable it to be considered towards the housing supply in the Borough, then officers are of the view that this should be secured by way of a legal agreement.
- 2.10 In terms of the applicant's argument that the proposal would contribute to "an overriding need for care homes in the Borough", a report to Cabinet on 18th January 2018 on the 'Sufficiency of registered care home provision for older people', by the RBWM head of Commissioning – Adults and Children, advised that there were 24 registered care homes providing 1,217 beds in the borough (for people over the age of 65 years). A care home in Windsor with 72 beds has since opened, taking the total number of beds to 1289. The report confirms that "This more than meets the needs until 2021." As such, there is not a need for care homes for older people / elderly in the Borough as suggested by the applicant.

2.11 Lastly, members of the Panel's attention is drawn to the 2 porta-cabins and rear porch (viewed on 12.02.19) recently erected on the site (see presentation photographs). These require planning permission and are therefore currently unauthorised.

ii. The impact on the character and appearance of the area, including the Littlewick Green Conservation Area

2.12 A revised plan has been received that shows some additional planting to the front of the site adjacent to the highway. However, this is largely on adopted highway land and not within the control of the applicant, and any meaningful planting within this location would obscure visibility from the site, as well encroach onto the proposed parking area.

iii. The impact on the amenities of neighbours and future occupiers of the proposed development

2.13 There have been no changes to the rear amenity space provided for future residents of the development. The only change proposed at the rear of the building shown on a revised site plan is that the bin store and cycle store have been swapped over. The bin store now being closer to the corner of the main building.

iv. Parking provision and highway safety – position of refuse storage

2.14 The applicant has advised that the on-site refuse and recycling facilities are as existing, supporting an existing commercial use (the hotel) and served by a commercial refuse collector, not the Council. The same arrangements will apply to the proposed care home use and therefore these should be acceptable.

2.15 Notwithstanding the existing arrangements or who is responsible for collecting the waste, the proposal requires planning permission and is contrary to the Council's adopted standards for operatives. The application represents an opportunity to improve the situation, to minimise the carrying distance for the refuse collector, reducing potential conflicts with other residents using the shared access and parking associated with the development. There is also an opportunity to reduce the disturbance caused to the residents of the home by moving the bin store away from proposed bedrooms.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
PANEL UPDATE**

Maidenhead Panel

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| Application No.: | 18/03097/FULL |
| Location: | Unit 1 And 3 To 6 And 13 Lower Mount Farm Long Lane Cookham Maidenhead |
| Proposal: | Continued use of units 1 and 3 to 6 and 13 (inclusive) for storage, business and industrial purposes |
| Applicant: | Copas Farm Limited |
| Agent: | Mr Duncan Gibson |
| Parish/Ward: | Cookham Parish/Bisham And Cookham Ward |

If you have a question about this report, please contact: Claire Pugh on 01628 685739 or at claire.pugh@rbwm.gov.uk

1. SUMMARY

- 1.1 Correspondence has been received from the Cookham Society raising a number of concerns with the officer's report, and this is summarised and addressed in section 2 of this Update.

There is no change to the recommendation in the main report.

2. ADDITIONAL INFORMATION

2.1 Comments from Interested Parties

The Cookham Society has made the following comments in respect of the main Panel report.

- *Concerns over the description of the application- if continued use" refers to the previously approved, now expired, temporary use then it should be on the same basis as the previous use. Previously, there was a S106 agreement in place for a Farm Management Strategy which provided important benefits to the community. We request that a condition for a renewed S106 agreement is imposed on this application. Otherwise, we suggest that the title should be changed to "retrospective change of use."*

Officer response: The description of continued use, is considered acceptable. Such a description does not imply the use is lawful, and the report makes it clear that the temporary permission for the use of these buildings has lapsed.

- *We believe the enforcement issues on other buildings at Lower Mount Farm need to be resolved before this application can be properly decided.*

Officer response: Unresolved enforcement issues on other buildings outside this application site would not be a valid reason to delay the determination of this application. This application has to be considered on its own merits.

- *Paragraph 146 of the NPPF deals with the "re-use" of buildings; GB8 (2) refers to "change of use of buildings". Re-use and change of use are different concepts. Policy GB8 (2) should be given full weight.*

Officer response: The re-use of the building does not preclude a material change of use of that building. In the case of {2016} EWHC 5895(London Borough of Bromley), the Judge commented on the interpretation of paragraph 90 of the 2012 NPPF (now paragraph 146 of the NPPF) that:

'Finally, I note that the categories of appropriate development at paragraph 90 include one clear example of a material change of use, namely "the re-use of buildings provided that the buildings are of permanent and substantial construction". This must refer to a material change of use since it only refers to "re-use" and not operational development and there would be no need for planning permission if there were no material change of use. Whilst this is not directly relevant to the construction of paragraph 89, it does lend support to the point that the Court of Appeal in Timmins, in dealing with material changes of use of land in general, was not seeking to construe or confine the meaning of the specific categories of appropriate development in paragraphs 89 and 90 which may include specific material changes of use'

Paragraph 146 of the NPPF is therefore considered to be of relevance to this proposal. It is appropriate to consider whether Policy GB8 as a policy of the Adopted Development Plan is in compliance with this paragraph of the NPPF, and it is not considered to be, it is therefore maintained that Policy GB8 should be afforded limited weight.

- *The report states in paragraph. 9.10 that policy SP5 of the Borough Local Plan Submission Version is a material consideration but then dismisses it as not fully consistent with the NPPF. Could we please have a detailed explanation of why the Borough Local Plan Submission Version is not considered consistent with the NPPF.*

Officer response: Since the Borough Local Plan Submission Version was published, the NPPF was updated (in July 2018), which amended the exceptions to inappropriate development in the Green Belt from the 2012 version. Notably, the test for the development of previously developed land changed, and a material change of use of the land was introduced as an exception to inappropriate development. As such, Policy SP5 of the BLP is not fully consistent with the NPPF 2018 and so is not given full weight.

- *No weight should be given to Policy ED2 of the Borough Local Plan Submission Version as there was no public consultation and the classification is strongly opposed by the local community*

Officer response: Due the level of unresolved objections to this policy, and because employment allocations have not gone through examination of the Borough Local Plan, this policy is afforded very limited weight.

- *Re-use is not defined in the NPPF glossary. No other authoritative definition is provided in the report and therefore it is reasonable to use the ordinary meaning of the word. A straight forward English dictionary definition could be "use again for the same purpose." Para 146(d) therefore does not justify the proposed unqualified and unrestricted change of use.*

Officer response: The interpretation of paragraph 146 of the NPPF has already been addressed above.

- *The proposed conditions fail to deal with the substantial nuisance to residents from noise generated by metal objects being loaded onto and unloaded from lorries at unsociable hours in the open yard area. They also fail to deal with nuisance of floodlights and unsightly lorries and stored materials in the rear yard area.*

Officer response: The recommended conditions take on advice from the Environmental Protection Officer, and are considered to meet the relevant tests for imposing conditions set out in the NPPF.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
PANEL UPDATE**

Maidenhead Panel

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| Application No.: | 18/03451/FULL |
| Location: | Milley Nursery Milley Road Waltham St Lawrence Reading RG10 0JP |
| Proposal: | Construction of x4 detached dwellings with detached carports, new access on to Milley Road and closure of existing site access, following demolition of existing buildings and hard standing areas. |
| Applicant: | Westbourne Homes Ltd |
| Agent: | Mr Paul Dickinson |
| Parish/Ward: | Waltham St Lawrence Parish/Hurley And Walthams Ward |
| If you have a question about this report, please contact: Briony Franklin on 01628 796007 or at briony.franklin@rbwm.gov.uk | |

1. SUMMARY

1.1 The developer, Westbourne Homes, has submitted a letter dated 17th February 2019 in response to issues raised in the Panel report including the capacity of the foul drainage system, impact on water pressure, the lack of any affordable housing provision and precedent. A letter from Thames Water has also been provided. Whilst your officers consider that sufficient information now exists to ensure that sufficient sewerage capacity would exist and that water pressure need not be affected, it remains the case that the development comprises inappropriate development with no VSC and that an affordable housing offer has not been clearly set out nor confirmed as policy compliant.

1.2

There is no change to the recommendation in the main report, however reason for refusal 3 has now been overcome and deleted accordingly.

2. ADDITIONAL INFORMATION

The additional information submitted in the letter dated 17th February covers the following issues:

Impact on Existing Services Infrastructure

A letter has been received from Thames Water confirming that there will be sufficient sewerage capacity to serve the foul discharges from the proposed development, provided the discharge is by gravity.

A Soil Investigation carried out confirms that the soil conditions are sufficient to avoid any of the proposed site surface water discharging outside of the site. The Ground investigation report is available on request.

No additional information has been received regarding the incoming water pressure however the developer does not consider that the proposed development is likely to have a greater impact than the existing plant nursery use.

Affordable Housing

The developer has confirmed that they are willing to provide a financial contribution in lieu of affordable housing and they suggest that a decision on the application be deferred and delegated to the Head of Planning to allow a 'suitable sum' to be negotiated.

Precedent

The developer considers that very little weight has been given to the possibility of alternative undesirable uses taking place within the existing buildings which could give rise to greater traffic disruption. Reference has been made to the development of 2 houses at Hayes Meadow, Milley Road which was granted planning permission under reference number 10/0933/FULL on a former redundant chicken farm. The developer believes the circumstances to be very similar to the current proposal.

Presentation

The developer has requested that existing site plan drg number 2386-PL112 and proposed site plan drg No. 2386-PL102 and a selection of photographs of the existing site is included in the presentation.

3 OFFICER'S COMMENTS

Impact on Existing Services Infrastructure

It is noted that Thames Water has confirmed that there is sufficient sewerage capacity to serve the 4 dwellings, provided the discharge is by gravity. Furthermore, your officers are inclined to agree that the proposed four dwellings are unlikely to have any greater impact on incoming water pressure than the lawful nursery use of the site. Consequently it is concluded that reason for refusal No. 3 has been satisfactorily overcome and it is therefore recommended that it be removed from the reasons for refusal.

Affordable Housing

The applicants have stated that they are willing to provide a financial contribution in lieu of affordable housing but they go on to state a desire that the application be deferred and delegated to the Head of Planning to allow a suitable sum to be negotiated. The Council would expect such an offer to be fully supported by a Housing Statement detailing such provision and in the absence of a policy compliant offer be supported by a Viability Assessment. No such information has been submitted and in light of the fact that your officers consider the proposed development to be unacceptable in principle and that an affordable housing offer has not been clearly set out nor confirmed as policy compliant, it is considered that reason for refusal No. 2 should remain as recommended.

Precedent

It has already been established that this site does not constitute Previously Developed Land. Moreover, the majority of the buildings on the site are dilapidated glasshouses and are not substantial or permanent structures that would be capable of being re-used in any case. Furthermore, the Council has control over any future uses of the site which fall within the definition of development needing planning permission and could take appropriate enforcement action if considered expedient should such development be carried out without the benefit of planning permission. Therefore only very limited weight can be given to any potentially undesirable uses possibly occurring in the future as VSC in the consideration of this application. The example quoted at Hayes Meadow is now 9 years ago and pre-dates the NPPF. Moreover, what must be considered is the potential undesirable precedent that would be established should permission be forthcoming for inappropriate development on agricultural land in the absence of any VSC.

Presentation

The drawings and selection of photographs have been included in the presentation.

