

**Royal Borough of Windsor and Maidenhead  
Planning Committee**

**MAIDENHEAD DEVELOPMENT MANAGEMENT PANEL**

28 August 2019

Item: 5

|                         |  |
|-------------------------|--|
| <b>Application no.:</b> | 17/04002/OUT   |
| <b>Location:</b>        | Claire's Court School Senior Boys, Ray Mill Road East, Maidenhead, SL6 8TE   |
| <b>Proposal:</b>        | Outline application for access only to be considered at this stage with all other matters to be reserved for the redevelopment of the existing school facilities and the erection of 11 no. four and five bed detached private dwellings |
| <b>Applicant:</b>       | Berkeley Homes   |
| <b>Agent:</b>           | PRP Planning   |
| <b>Parish/Ward:</b>     | Maidenhead Unparished/ Maidenhead Riverside Ward   |

**If you have a question about this report, please contact:** Antonia Liu on 01628 79 6034 or [antonia.liu@rbwm.gov.uk](mailto:antonia.liu@rbwm.gov.uk).

**1. SUMMARY**

- 1.1 This application is one of two involving the redevelopment of sites currently occupied by Claire's Court School to housing, (the other application being 17/04001). These applications link to three further applications, collectively known as the 'Ridgeway Project', which together propose a new school, hockey pitches and 157 dwellings. This application is in outline, assessing whether the principle of 11 dwellings on this site, together with the proposed access, is acceptable.
- 1.2 The existing school on the site is a community facility, which would not be lost if the separate application for a new school (17/04018) is approved. The proposal would also contribute to the housing supply (including affordable housing) in the Royal Borough, would be compatible with the character of the area in which it would be located and would result in fewer traffic movements to and from the site than the existing school use.
- 1.3 However, the application site is located within an area at high risk of flooding where, over the lifetime of the dwellings, a flood event is highly probable. In such an event, residents would be unable to escape their properties safely and it would be dangerous for emergency services to access the site. In addition, the proposed development would likely reduce the capacity of the site to store flood water so that in the event of a flood, water would be displaced to areas currently not liable to flood resulting in more people and properties being put at risk.
- 1.4 While there are benefits to the proposed development they do not outweigh the potential risk to lives and properties from flooding which would result from approving the application.

**It is recommended that planning permission be REFUSED for the following summarised reasons (the full reasons with policy references are set out in Section 12 of this report):**

- |           |  |
|-----------|--|
| <b>1.</b> | The application site is in an area at high risk from flooding and the proposal has failed to demonstrate that safe access and egress to and from the site could be achieved in the event of a flood, putting people at risk. It has also failed to demonstrate that it would not increase flooding elsewhere. The proposal therefore fails the Exception Test and is contrary to adopted Local Plan Policy and National Planning Policy. |
| <b>2.</b> | Loss of community facility contrary to Local and National Planning Policies.   |

|    |   |
|----|---|
|    |   |
| 3. | Failure to provide 30% affordable housing contrary to Local and National Planning Policies. |

## 2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

## 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site, measuring approximately 0.73ha, is located within Maidenhead and currently comprises of Claire's Court Senior Boys School at Ray Mill Road East. The school buildings are mainly sited along the western boundary of the site comprising of the main school building (c.1850) and a technology centre (c.1988), and sports hall (c.1983) and bus shelter building (c. 2007) to the south-east. There are also two artificial grass sports area which are sited along the southern and eastern boundary. Car parking is located within a central area of hardstanding and to the north-eastern corner. The entire site lies within Flood Zone 3 with reference to the Environment Agency national flood map for planning. There is a London Plane located towards the entrance of the site which is subject to TPO ref: 050/1998/TPO. A Horse Chestnut also covered by the same TPO is no longer present, having been felled following a Tree Work application ref: 05/02041.
- 3.2 The site is accessed from Ray Mill Road East, which along with residential properties fronting onto Ray Mill Road East bounds the site to the north. To the east is an unnamed Ordinary Watercourse and beyond are residential properties fronting Woodhurst Road. To the west are residential properties fronting Ray Park Avenue, while to the south are residential properties on Camperdown. The wider surrounds is predominately residential in character mainly comprising of suburban housing. The River Thames is approximately 350m to the east and Maidenhead Town Centre approximately 1km to the south-west.

## 4. CLAIRE'S COURT BACKGROUND AND 'THE RIDGEWAY PROJECT'

- 4.1 Claire's Court is an independent day school founded in 1960 and currently located at 3 separate sites in Maidenhead at the Ridgeway (Junior Boys), Ray Mill Road East (Senior Boys) and College Avenue (Nursery, Junior and Senior Girls, and 6th Form). It is the largest independent school in the Borough and only all-through school which offers education from Nursery to Sixth Form for boys and girls in Maidenhead and represents just under 20% of the RBWM independent school capacity.
- 4.2 Junior Boys at The Ridgeway has a nominal capacity of 280 pupils; Senior Boys at Ray Mill Road East is 360; and the Nursery, Junior and Senior Girls, and Sixth Form at College Avenue is 550. However, while the total nominal capacity is 1190 pupils the school group is unable to operate at more than 96% capacity (1142 pupils) due to physical and statutory constraints. From the annual school census as of January 2018 there were 1055 pupils on the roll, which equates to 89% capacity. Around 56% of pupils live within the Borough.
- 4.3 Claire's Court School provides support for pupils with special educational needs. From September 2017 there have been 10 pupils at Claire's Court with Education, Health and Care Plans (EHCP) funded by the Local Authority.
- 4.4 The nursery situated at College Avenue is an 80-places Early Years setting for 3-4 year olds, which is seasonally based with the funded Early Years component delivered in the morning. The nursery therefore provides 40 FTE places.
- 4.5 The school groups has experienced an approximate 15% rise in admissions between 2013 and 2017. If growth is sustained at the current trend (2%) then the school will be at operational capacity during the 2020-2021 academic year.

- 4.6 In terms of work-force, as of December 2017 there were 171 full time members of staff, 50% of which live in the Borough, and 120 part-time with 64% living in the Borough. The staff number in FTE is 231 with 54% living within the Borough. In addition, the school employs 93 contractors consisting of specialists that provide a regular service but with a low level time input. Approximately 44% of contractors reside inside the Borough. The submission sets out that Claire's Court is the 10th largest employer in RBWM.
- 4.7 A Educational Needs Statement / Report (Appendix 5, Very Special Circumstances Report) has been submitted which identifies problems of operating across multiple sites. The report was updated and is provided in Appendix 2 of the Very Special Circumstances Addendum. This includes economic inefficiencies with the duplication / triplication of facilities and administrative and caretaking services; and time inefficiencies with travel between sites for lessons and activities by staff and pupils, and approximately 12% of families having siblings based at different school sites.
- 4.8 Ray Mill Road East has at its cores Victorian buildings and the site has been progressively and fractionally developed over the years. The space at Ray Mill Road East is broken down by age in the submitted Very Special Circumstances Report and is as follows:

| Ray Mill Road East     |      |      |      |      |      |       |          |
|------------------------|------|------|------|------|------|-------|----------|
| Decade of Construction | 1850 | 1960 | 1970 | 1980 | 2000 | Temp. | Total    |
| GIA sqm                | 653  | 184  | 421  | 1214 | 266  | 338   | 3076 sqm |
| GIA as % of Total      | 21%  | 6%   | 14%  | 39%  | 9%   | 11%   |          |

- 4.9 A Conditions Survey has also been submitted (Appendix 6, Very Special Circumstances Report) which reports that the buildings at Ray Mill Road East are in fair to good condition but have surpassed their life expectancy and renewal work is necessary with immediate works required to replace the majority of roofs, fascias and rainwater good.
- 4.10 In terms of sufficiency and suitability of accommodation, based on national criteria for mainstream schools outlined in the Department for Education Building Bulletin 103 (2014), the Educational Needs Statement / Report identifies problems relating to the existing accommodation at Ray Mill Road East. In summary, identified problems includes under-sized teaching spaces, poor acoustic conditions and sound insulation between rooms and floors and poor DDA accessibility.
- 4.11 In determining a planning application the Local Planning Authority is required under planning law to assess a proposal against the relevant Development Plan policies unless there are material considerations which indicate otherwise. The National Planning Practice Guidance (NPPG) advises that the scope of what can constitute a material consideration is very wide, but in general planning is concerned with land use in the public interest.

## 5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The application is for outline permission for the demolition of the existing school buildings and facilities and the erection of 11 dwellings. Outline planning permission enables the principle of development and specified details to be agreed. In this case, in addition to the principle of development, permission is sought for details relating to the accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access, circulation, and how these fit into the surrounding access network (access). The proposal originally submitted also included layout and scale for consideration, but these were subsequently removed from the application by the applicant. While all matters other than access are reserved, information on the use, amount of development for each use, indicative layout, and the upper and lower limits for height, width and length of each building is required to be submitted with an outline application.
- 5.2 As shown on the indicative layout, plan ref: 2107.2-C-1005-X, the proposal seeks to retain the existing access via Ray Mill Road East with a 4.8 wide shared surface to serve 11 detached houses. The houses are arranged in a perimeter block around a central area of open space and

fronting onto an internal access road which runs north to south with two arms running west to east, all terminating in 'dead ends'. The houses would be up to 2 and half storeys with a ridge height of between 9.1m and 11.2m. Paragraph 4.3 of the Planning and Affordable Housing Statement advises that the scheme comprises of 2 x 4-bed houses and 9 x 5-bed houses, this could of course change within any agreed parameters.

5.3 The planning history for the site as follows:

| Planning references  | Proposal   | Decision  |
|--|--|---|
| 10/01982/CPD   | Certificate of lawfulness to determine whether a proposed erection of two canopy shades is lawful  | Approved - 09.09.2010   |
| 10/01762/NMA   | Non material amendment to planning permission 09/01189 for alterations to canopy to allow for a fabric roof  | Approved - 06.08.2010   |
| 09/01189/FULL  | Construction of detached locker store and toilet facilities with freestanding canopy shelter   | Approved - 17.07.2009   |
| 05/00310/FULL  | Construction of a two storey lift shaft and stairs to serve ground and first floors, second floor extension (office) and first floor extension (classroom) | Approved - 17.03.2005   |
| 01/36913/FULL  | Ground and first floor extension to existing sports hall to improve sports facilities  | Approved - 21.03.2002   |
| 98/32787/TEMP  | To replace existing two temporary classrooms with a double unit  | Approved - 25.08.1998   |
| 96/30660/TEMP  | Retention of two terrapin classrooms   | Approved - 13.11.1996   |
| 92/00882/FULL  | Installation of 3 external escape staircases and 1 over flat roof walkway  | Approved - 18.08.1992   |
| 94/01022/TEMP<br>92/00881/TEMP<br>90/01046/TEMP<br>88/01123/TEMP<br>408667<br>306/65<br>423/63 | Continued use of two terrapin classrooms   | Approved - 20.09.1994<br>Approved - 18.08.1992<br>Approved - 18.06.1990<br>Approved - 09.06.1988<br>Approved - 14.03.1979<br>Approved - 25.06.1965<br>Approved - 15.07.1963 |
| 88/01122/TEMP  | Erection of a porta cabin for use as temporary classroom   | Approved - 27.05.1988   |
| 88/01121/FULL  | Construction of a gas meter  | Approved - 10.02.1989   |
| 87/00994/FULL  | Construction of a technology wing with a covered way and bridge link to main school  | Approved - 24.07.1987   |
| 87/00993/FULL  | Construction of corridor   | Approved - 30.11.1987   |
| 416962<br>413903   | Renewal of temporary permission for 5 classrooms   | Approved - 29.03.1985<br>Approved - 08.03.1982  |
| 414412<br><br>413855   | Erection of sports hall  | Refused - 03.09.1982<br>Appeal Allowed - 30.08.83<br><br>Refused - 05.05.1982   |
| 405139<br>409/71<br>302/62   | Add classrooms and toilet accommodation  | Approved - 18.03.1977<br>Approved - 03.02.1972<br>Approved - 12.06.1962   |
| 1294/72<br>214/68  | Hutted classroom unit  | Approved - 15.01.1973<br>Approved - 24.04.68  |
| 323/67   | Extension to school premises   | Approved - 12.06.1967   |

- 5.4 There are 4 other linked and pending applications which are included on this agenda and are as follows:

| Planning reference | Site                                  | Proposal   |
|--------------------|---------------------------------------|--|
| 17/04018/FULL      | Claire's Court School, Cannon Lane    | Construction of an all-through school comprising nursery and junior building; central building and senior building. Provision of landscaping, amenity area, sport/running track, environmental garden and covered multi-use games area. Provision of staff and visitor car parking, parent drop off and coach parking area |
| 18/00130/OUT       | Claire's Court School, Cannon Lane    | Outline application (layout, scale and access) for the erection of 157 residential units.  |
| 17/04026/OUT       | Claire's Court School, Cannon Lane    | Outline application (access) for the development of 2 artificial grass hockey pitches, 2 artificial grass practice areas, a new pavilion building for shared use by the hockey club and school together with an artificial grass rugby pitch and associated other recreation grass pitches.                                |
| 17/04001/OUT       | Claire's Court School, College Avenue | Outline application (layout, scale and access) for the erection of 53 no. dwellings.   |

- 5.5 While there is a relationship between the applications and due regard should be given to that relationship, each application should be considered on its own merits.

## 6. DEVELOPMENT PLAN

### Adopted Royal Borough Local Plan (2003)

- 6.1 The Council, in determining the planning application has the following main statutory duties to have regard to the provisions of the development plan so far as material to the application and any other material considerations. (Section 70(2) Town & Country Planning Act 1990), and to determine the application in accordance with the development plan unless other material considerations indicate otherwise. (Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 6.2 The main strategic planning considerations applying to the site and the associated policies are:

| Issue                             | Adopted Local Plan Policy |
|-----------------------------------|---------------------------|
| Protection of Existing Facilities | CF1                       |
| Flood Risk                        | F1                        |
| Design, character and appearance  | DG1, H10, H11             |
| Open Space                        | R1, R3, R4                |
| Affordable Housing                | H3                        |
| Housing Mix                       | H8                        |
| Highways                          | P4, T5, T7                |
| Trees                             | N6                        |
| Archaeology                       | ARCH3                     |

These policies can be found at

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

## 7. MATERIAL PLANNING CONSIDERATIONS

### National Planning Policy Framework Sections (NPPF) (2019)

Section 2 - Achieving Sustainable Development

Section 4 - Decision-Making

Section 5 - Delivering a Sufficient Supply of Homes

Section 8 - Promoting Healthy and Safe Communities  
 Section 9 - Promoting Sustainable Transport  
 Section 11 - Making Effective Use of Land  
 Section 12 - Achieving Well-Designed Places  
 Section 14 – Meeting the Challenges of Climate Change, Flooding and Coastal Change  
 Section 15 - Conserving and Enhancing the Natural Environment  
 Section 16 - Conserving and Enhancing the Historic Environment

### **Borough Local Plan: Submission Version**

| Issue   | Local Plan Policy       |
|---|-------------------------|
| Design in keeping with character and appearance of area | SP2, SP3                |
| Housing provision                                       | SP1, HO1, HO2, HO3, HO5 |
| Trees and nature conservation                           | NR2, NR3                |
| Flood Risk  | NR1                     |
| Highways and parking                                    | IF2                     |
| Makes suitable provision for infrastructure             | IF1, IF4, IF7, IF8      |

- 7.1 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough. However, by publishing and submitting the Borough Local Plan for independent examination the Council has formally confirmed its intention to adopt the submission version. As the Council considers the emerging Borough Local Plan to be sound and legally compliant, officers and Councillors should accord relevant policies significant weight in the determination of applications taking account of the extent to which there are unresolved objections to relevant policies. Therefore, the weight afforded to each policy at this stage will differ depending on the level and type of representation to that policy. This is addressed in more detail in the assessment below.

This document can be found at:

[https://www3.rbwm.gov.uk/info/201026/borough\\_local\\_plan/1351/submission/1](https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1)

### **Supplementary Planning Documents / Guidance**

- RBWM Interpretation of Policy F1
- Interpretation of Policies R2, R3, R4, R5 and R6
- Planning Obligations and Developer Contributions
- Draft Borough Design Guide

### **Other Local Strategies or Publications**

- 7.2 Other Strategies or publications relevant to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy
- Affordable Housing Planning Guidance
- RBWM Strategic Flood Risk Assessment

More information on these documents can be found at:

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

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

36 occupiers were notified directly of the application. The planning officer posted a statutory notice advertising the application at the site on 18.01.2018 and the application was advertised in a local paper distributed in the borough on 25.01.2018.

Representations supporting and objection to the application received up to the 15 August 2019 are summarised below. Any representations received after this date will be reported in an update.

Around 2083 letters were received supporting the application, summarised as:

| Comment |   | Approximate number of representation on this issue | Where in the report this is considered |
|---------|---|--|--|
| 1.      | Would facilitate relocation and provision of high quality education securing the future of Claire's Court School, and high quality sports facilities, including Maidenhead Hockey Club                              | 2082   | 9.2-9.5                                |
| 2.      | Would provide much needed houses within the Borough   | 2068   | 9.6                                    |
| 3.      | Includes transport infrastructure improvements  | 2064   | 9.5                                    |
| 4.      | Would reduce traffic in town centre and across the Borough as teachers and parents will not have to travel between the 3 Claire's Court sites, and solve on-street parking problems during drop-off / pick up peaks | 28   | 9.52                                   |
| 5.      | Would provide much needed affordable homes  | 22   | 9.45-9.49                              |
| 6.      | The proposal would safeguard / provide jobs, and would encourage investment in Maidenhead   | 8  | 4.11                                   |
| 7.      | Would provide 2 acres of public open land at the Ridgeway site for community use  | 7  | 4.12                                   |
| 8.      | If Claire's Court school closes then over 1000 children will have to find alternative places  | 2  | 9.5                                    |
| 9.      | Proposed housing is in keeping with character of area   | 1  | 9.35-9.36                              |
| 10.     | Increase in demand on physical and social infrastructure is not an issue  | 1  | 10.1                                   |

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

| Comment |  | Approximate number of representation on this issue | Where in the report this is considered |
|---------|--|--|--|
| 1.      | Increase in traffic resulting in harm to highway safety and congestion   | 6  | 9.52                                   |
| 2.      | No affordable housing on site  | 4  | 9.47                                   |
| 3.      | Overdevelopment of the site  | 5  | 9.35, 9.36                             |
| 4.      | The proposal is out of keeping in terms of height, form, design to the detriment of the streetscene and local character. | 3  | 9.31-9.40                              |
| 5.      | Insufficient parking proposed resulting in an increase in on-street parking pressure                                     | 3  | 9.55                                   |
| 6.      | Increase in flood risk   | 3  | 9.8-9.30                               |
| 7.      | Housing not required as RWBM can demonstrate 5 year housing supply   | 3  | 9.72                                   |
| 8.      | Increase in pressure on physical infrastructure (e.g. roads, sewers)   | 3  | 10.1                                   |
| 9.      | Increase in pressure of social infrastructure (e.g. GPs, Schools, Police)  | 3  | 10.1                                   |

|     |  |   |                            |
|-----|--|---|----------------------------|
| 10. | Harm to neighbouring amenity in terms of visual overbearing, noise, light pollution, and loss of privacy | 3 | 9.58-9.61                  |
| 11. | Loss of school within the town centre  | 2 | 3.1<br>Not in town centre. |
| 12. | Loss of building of merit and heritage   | 2 | 3.1                        |
| 13. | Harm to ecology  | 2 | 9.62-9.68                  |
| 14. | Loss of / harm to trees  | 3 | 9.38-9.40                  |
| 15. | Disturbance during construction  | 1 | Can be conditioned.        |
| 16. | Loss of property value   | 1 | Not a planning matter.     |
| 17. | Inaccurate traffic survey  | 1 | 9.52                       |

## Consultees

| Consultee                  | Comment   | Where in the report this is considered |
|----------------------------|---|--|
| Berkshire Archaeology      | No objection subject to a condition relating to a programme of archaeology field evaluation in accordance with an approved written scheme of investigation.   | 9.69-9.70                              |
| Ecology                    | No objection subject to conditions relating to a European Protected Species licence for bats issued by Natural England, updated surveys to be submitted as part of any reserved matters application, and Biodiversity Enhancement Plan; and either a condition or informative relating to breeding birds.   | 9.62-9.68                              |
| Environment Agency         | Raises no objection to the application, subject to a condition to secure measures in the Flood Risk Assessment relating to flood compensation, and the height of the finished floor levels for buildings.<br>[Note for clarity: the EA does not consider the Sequential and Exception Test, this has to be done by the LPA]   | 9.8-9.11                               |
| Environmental Protection   | No objection subject to conditions relating to a Construction Environmental Management Plan, Dust Management Plan, restriction on construction fires, details on mechanical plants and equipment, vehicle deliveries, contaminated land, a lighting scheme and air quality.   | Noted                                  |
| Highways                   | No objection subject to a condition relating to visibility splays to be provided in accordance with the approved plans. Future reserved matter planning application should include details of parking and turning, cycle and refuse details and a construction management plan.   | 9.50-9.57                              |
| Lead Local Flood Authority | No objection subject to compliance with a condition to secure full details of all components of the proposed surface water drainage system.   | 9.28                                   |
| Sports England             | The proposed development does not fall within the statutory remit and therefore do not want to give a detailed response, but if the proposal involves the loss of any sports facilities then full consideration should be given to whether the proposal meets para. 74 of the NPPF (2012) and whether the proposal is in accordance with local policies to protect social infrastructure. Consideration should also be given to how any new development, especially for housing will provide opportunities for people to lead healthy lifestyles and communities. | Noted                                  |
| Trees                      | Amended arboriculture information submitted is acceptable,  | 9.38-9.40                              |

|  |   |  |
|--|---|--|
|  | but the development should include a shared surface for the driveway in the interest of tree no. 1, 2 and 3. In terms of the tree no. 21 more can be done in terms of an alternative layout / design of the house to reduce the conflict. |  |
|--|---|--|

## Others

| Group                    | Comment  | Where in the report this is considered |
|--------------------------|--|--|
| Maidenhead Civic Society | No objection subject to relocation to the combined campus on the Ridgeway site. The dwellings are in character with the neighbourhood and would welcome the reduction in car and bus traffic. Gardens are small, but welcome the central landscaped space to create a more open aspect for the development visually. | Noted                                  |

## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Principle of Development
- ii Flood Risk
- iii Impact on Character of the Area
- iv Open Space Provision In New Residential Development
- v Housing Mix
- vi Affordable Housing
- vii Highways
- viii Residential Amenity
- ix Ecology
- x Archaeology
- xi Planning Balance

### i. Principle of Development

#### Loss of Community Facility

9.2 Local Plan policy CF1 states that the Council will not permit the loss of existing community facilities and buildings unless it is satisfied that there is no longer a need for them or an acceptable alternative provision is to be made elsewhere. The policy itself does not define what a community facility is, however, while the Independent school at College Avenue does not primarily exist to meet the needs of local residents and is not an asset available to meet the needs for all in the community, it is considered that the school does meet a local community need. Therefore in the weighing up of whether CF1 should be applied, it is considered in this context that it should.

- 9.3 As a material consideration, BLPSV policy IF7 states that existing community facilities should be retained and applications for redevelopment will be resisted unless it can be demonstrated that there is no longer a demand for the facility within the area or the proposed development would provide sufficient community benefit to outweigh the loss of the existing facility or there is provision for new or replacement facilities to meet an identified need in locations which are well related and easily accessible to the settlement or local community. In the justification text for BLPSV policy IF7 the definition of community facility includes schools. It does not distinguish between the types of schools. Given the extent of unresolved objections BLPSV Policy IF7 should be allocated significant weight as a material consideration. As a further material consideration, paragraph 92 of the NPPF states that planning decisions should provide the social, recreational and cultural facilities and services the community needs and guard against the unnecessary loss of valued facilities while paragraph 94 of the NPPF states that it is important that a sufficient choice of school places is available to meet the needs of communities.
- 9.4 Given the policy context it is considered that the existing Senior Boys School at Ray Mill Road East constitutes a community facility and the proposed redevelopment of the site for housing would result in its loss. There is no substantive evidence that there is no longer a need for the school. Given the housing targets set out in the BLPSV, the Council's Infrastructure Delivery Plan (IDP) indicates that demand could increase by 22.3 'Form of Entry' (FE - the equivalent of one class of 30 pupils) with the majority of the increase in Maidenhead. For special education needs, the Borough is in the process of assessing the likely future demand arising from the housing target in the BLPSV, but for the purposes of the IDP an assumption has been made that 300 places overall will be needed. In respect of future requirements, the Council has identified capacity to meet the projected demand, but on the basis that the current independent school sector will continue to provide the same number of spaces. It should be noted that Section 5 of the Very Special Circumstances Report also presents a case against the lack of need for the school.
- 9.5 In respect of an acceptable alternative provision it is proposed that the Senior Boys School is re-provided at a new all-through school campus at The Ridgeway, which is subject to a linked planning application, ref: 17/04018/FULL. This is an acceptable alternative provision in principle, as unlike state funded schools the Claires Court school group does not serve a set catchment area and there is more flexibility in its location. Furthermore it would still be located in the Maidenhead area. However, the application for the school under 17/04018/FULL is recommended for refusal. As such, it is considered that the re-provision of the community facility cannot be achieved and therefore the proposal is contrary to Local Plan policy CF1, BLPSV policy IF7 and the provisions of paragraph 94 of the NPPF.

#### Residential Development

- 9.6 The site is not allocated for housing in the Local Plan or BLPSV but the site lies within the urban settlement of Maidenhead and is previously developed land. Given the key aim to boost significantly the supply of housing as set out in paragraph 59 of the NPPF, and the substantial weight that should be given to the value of using suitable brownfield land within settlement for homes as set out in paragraph 118 of the NPPF there is no objection in principle to the redevelopment of the site for housing development subject to the re-provision of the community facility. However, the site is located in Flood Zone 3, and flood risk is assessed below.

#### **ii Flood Risk**

- 9.7 Adopted Local Plan policy F1 advises that development will not be permitted within areas liable to flood unless it can be demonstrated that it would not in itself or cumulatively in conjunction with other development impede the flow of flood water; reduce the capacity of the flood plain to store flood water; or increase the number of people or properties at risk from flooding. Policy F1 broadly reflects the more recent advice contained in paragraph 155 of the NPPF, a material consideration of significant weight, which requires development to be safe for its lifetime without increasing flood risk elsewhere. However, in the first instance the NPPF requires development to be steered away from areas at highest risk (paragraph 158 of the NPPF). BLPSV policy NR1 states that within designated flood zones development proposals will only be supported where an appropriate flood risk assessment has been carried out and it has been demonstrated that development is located and designed to ensure that flood risk from all sources of flooding is

acceptable in planning terms. Due to the level of unresolved objection to Policy NR1 of the BLPSV, this policy is afforded limited weight as a material consideration. In applying the Sequential Test, development proposals should show how they have had regard to the availability of suitable alternative sites in areas of lower flood risk, the vulnerability of the proposed use and the flood zone designation, the present and future flood risk, the scale of potential consequences and site evacuation in the event of potential flooding.

### Flood Zone

- 9.8 Following the publication of the Lower River Thames model (2018) by the Environment Agency (EA), which updated the Flood Zone 3 modelled extents of the flood map for planning, the entire site falls in Flood Zone 3 which is land with a greater than 1% annual probability of river flooding. The sub-categorisation into Flood Zone 3a and 3b for the new modelled extent, however, has not yet been undertaken as this requires further data from the EA which at the time of writing has not yet been released. Flood Zone 3a (High Probability) is defined in the Council's Strategic Flood Risk Assessment (SFRA) as areas that are situated within the 1% or greater annual probability of river flooding, while Flood Zone 3b (Functional Flood Plan) is land subject to flooding in the 5% annual probability and land which provides a function of flood conveyance or flood storage. Flood Zone 2 in this reach of the river uses older modelling of the Thames. Furthermore, the EA has advised that no data from the 2018 modelling is available for applicants to use to inform their flood risk assessment. As such, for the purposes of this assessment, the 2007 Lower River Thames modelling is considered to be the best available data set for this area.
- 9.9 On the basis of the above and using the 2007 Lower River Thames modelling data, the site is classified as being Flood Zone 3a with a section along the eastern boundary lying in Flood Zone 3b and the north-west section of the site lying in Flood Zone 2 (RBWM Strategic Flood Risk Assessment, Figure 6).

### Site Specific Flood Risk Assessment

- 9.10 A site specific Flood Risk Assessment (FRA), dated December 2017, was submitted to support the application. During the course of the application, FRA Addendum Issue 1 (20 February 2019), FRA Addendum Issue 2 (1 March 2019) and FRA Addendum Issue 3 (20 March 2019) were subsequently submitted. An additional Flood Risk Note was submitted on 2 August 2019.
- 9.11 Notwithstanding the commentary in paragraph 9.8 of this report, the assessment within the FRA Addendum Issue 3 is based on the 2018 Lower Thames Model. However, there is no objection to this, as in comparison to the 2007 Lower Thames Model for the site the 2018 Lower Thames Model is more onerous.

### Sequential Test

- 9.12 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, while paragraph 158 states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The aim of the 'Sequential Test' is to ensure that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. Only where there are no other reasonably available sites in Flood Zone 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses.
- 9.13 The Council has carried out a Sequential Test for the site as part of the Council's SFRA Level 2 (2018), which concluded that it passes a sequential assessment. Nevertheless, a Sequential Assessment has also been submitted to support the application. The Sequential Assessment uses the Council's Strategic Housing Land Availability Study (SHLAA) (2014) and Housing and Economic Land Availability Assessment (HELAA) (2016) to identify potential sites which are comparable in area and potential yield across the Borough. An analysis of these sites has also been undertaken, determining whether sites with a lower probability of flood risk have a realistic prospect of being successful in securing comparable residential development and whether they would be reasonably available. The Sequential Assessment concludes that there are no other

sites within the Borough with a lower risk and of a similar size that are available for the proposal. It is considered that the Sequential Test for flood risk is passed.

### Exceptions Test

- 9.14 Paragraph 159 of the NPPF states that if it is not possible for development to be located in zones with a lower flood risk of flooding the Exception Test may have to be applied depending on the potential vulnerability of the site and the proposed development. In this case, *Table 2: Flood Risk Vulnerability Classification* of the NPPG classifies housing as 'More Vulnerable', while *Table 3: Flood Risk Vulnerability and Flood Zone Compatibility* indicate that 'More Vulnerable' development in Flood Zone 3b is incompatible and should not be permitted. However, paragraph 5.4 of FRA Addendum Issue 3 confirms that there will be no changes to levels and the indicative layout shows how the development could be designed so that there will be no built development within the existing Flood Zone 3b extent. 'More Vulnerable' development is considered to be acceptable in Flood Zone 3a, provided that it passes the Exception Test, considered below.
- 9.15 In accordance with paragraph 160 of the NPPF, for the Exceptions Test to be passed an application should be informed by a site-specific flood risk assessment (FRA) and it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and 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. Paragraph 161 of the NPPF goes on to state that both elements of the Exception Test should be satisfied for development to be permitted. The Exception Test is a matter for the local planning authority, it is not considered by the Environment Agency or encompassed in its response to this application.
- 9.16 In terms of not increasing flood risk elsewhere, a compensation assessment is normally carried out to determine the loss of floodplain area at 100mm to 300mm intervals with losses calculated up to 1% annual probability plus climate change. The appropriate level of allowance for climate change is dependent on the flood zone and flood risk vulnerability classification and, in accordance with *Table 1: Peak River Flow Allowances by River Basin District* of the NPPG, for more vulnerable development in Flood Zone 3a in the Thames River basin where the lifetime of the development is a minimum of 100 years, the higher central (35%) allowance should be used.
- 9.17 Figure 3 in FRA Addendum Issue 3 shows the existing flood volume of floodplain storage on the site for each 200mm slice between the lowest ground level and the 1 in 100 (1%) plus 35% climate change allowance level. Figure 5 in the FRA Addendum Issue 3 shows the proposed flood compensation volumes which show an increase of approximately 455 cubic metres. However, as shown in Figure 5 approximately 1441 cubic metres of the flood compensation volume is provided by voids under 10 of the 11 dwellings. The supporting text for Local Plan policy F1 indicates that flood compensation schemes must be carried out on a level for level basis (paragraph 2.4.10). Level for level compensation is the matching of volumes lost by lowering of ground levels on land connected to the floodplain and above the 1% annual probability flood level plus an appropriate allowance for climate change, whereas voids are considered to be mitigation of risk by design rather than a direct replacement for the loss of storage volume and there is no guarantee that the floodplain will be retained in the same way as the effectiveness of voids would depend on keeping the voids open and on proper maintenance for the lifetime of the development. A Void Maintenance Plan is included in Appendix C of the FRA Addendum Issue 3, which advises that on purchase of the dwellings residents will be provided with a copy of the Void Management Plan, informed of the importance of ensuring the voids remain fully useable at all times and the requirement for the management company to undertake annual external checks and internal checks every 10 years without hindrance. Residents will then be informed of any issues accordingly. However it is not considered that the maintenance plan can be effectively enforced through a condition nor is there a planning mechanism to guarantee residents will comply, in particular giving access to their property or action on any advice. As such, voids are not considered to be an effective alternative for level for level flood plain compensation, and the proposal development would therefore increase flood risk elsewhere. This is consistent with the Local Plan and the consideration of other applications in Flood Zone 3a and has been supported consistently at planning appeal.

- 9.18 In terms of demonstrating that the development will be safe for its lifetime the NPPG advises that the development should be designed to reduce flood risk, and to adequately protect property and people from flooding the EA advises that finished floor levels should normally be 300mm above the estimated 'design flood' plus an appropriate level of climate change and flood resistant and resilient measures should be incorporated where possible. For fluvial flooding, the 'design flood' is generally taken as 1 in 100 (1% annual probability) flood event. FRA Addendum Issue 3 identifies the 1 in 100 flood level plus 35% climate change allowance for the site as 24.66 Above Ordnance Datum (AOD). Paragraph 6.4 of FRA Addendum Issue 3 goes on to confirm that the finished floor levels of the proposed dwellings will be at least 300mm higher at 24.96m AOD – the current artificial pitch on site has a level of around 23.60m taken from the site survey submitted, whilst the access from Ray Mill Road is around 24.7m. The proposal includes other resistant and resilient measures such as flood resilient plaster, flood resilient flooring and raised wiring and sockets, which are also considered acceptable in principle. If minded to approve it is recommended the minimum finished floor level and details of the flood resistant and resilient measures are secured by condition.
- 9.19 The NPPG also advises that access and egress during a design flood is important to the overall safety of the development. For a route to be considered safe during a 1 in 100 plus climate change flood event, EA guidance states that the route should have a 'very low' hazard rating in accordance with the Framework and Guidance for Assessing and Managing Flood Risk for New Development (FD2320/TR2). Any other classification of route including 'danger for some', 'danger for most' and 'danger for all' would place future occupants of the development at risk. Paragraph 8.2 of FRA Addendum Issue 3 states safe access and egress has been assessed against the 1 in 100 year plus 35% climate change flood level, and Figure 7 shows flood depths of up to c. 1.2m. At this depth a safe route from the development to an area wholly outside the floodplain cannot be demonstrated. Paragraph 8.2 of FRA Addendum Issue 3 goes on to state it would be necessary for the development to rely on a Flood Emergency Plan which includes an evacuation strategy.
- 9.20 It is acknowledged that in some respect the 2018 Lower River Thames Model is more onerous than using the 2007 Lower River Thames Model. However, the 2007 Lower River Thames Model formed the basis of the FRA originally submitted, which also failed to demonstrate safe access. Paragraph 10.2 of the original FRA states that a detailed analysis of the predicted flood depths and grounds levels had not been undertaken of the identified route from the site to an area wholly outside of the floodplain but is likely to represent 'danger for some' or even 'danger for most'. The default position for future users of the site will be dependent on flood warnings and a Flood Emergency Plan including a flood evacuation plan, and as a last resort people would be required to take refuge at first floor level within the properties.
- 9.21 A Flood Evacuation Plan is included in Appendix C of the FRA Addendum Issue 3, which has been reviewed and agreed by the Council's Emergency Planning Manager. It is noted that the Thames is a slow responding catchment with typically a week's notice before significant flood arrives in Maidenhead. However, paragraph 4.1 and 4.3 of the Flood Evacuation Plan indicates that it is ultimately the responsibility of the resident and there is no planning mechanism that could guarantee that residents would heed flood warnings or taking into account potentially vulnerable occupiers could and would vacate at the time of any warning.
- 9.22 If residents remain in their homes, taking refuge at first floor level within the properties, there is no guarantee that residents would have sufficient supplies of food, drinking water and medical treatment for the duration of a flood event. A flood event could also be affected by the failure of infrastructure such as power and water supply and sewage provision. Consequently in this scenario it would be likely that emergency services would be called upon to move occupants, especially those less able. This is acknowledged in paragraph 13.5 of the submitted Flood Emergency Plan which states that where residents are trapped for extended periods they are more likely to need rescue from emergency services. The NPPG states that the emergency services are unlikely to regard developments that increase the burden and risk to emergency staff as being safe. Therefore, it is considered that due to the failure to provide a safe route of access and egress and reliance on a Flood Emergency Plan the proposed development is not considered safe for its lifetime.

- 9.23 A school and residential uses have the same flood risk vulnerability and a school is likely to have more people at the site than a development of 11 dwellings, but whereas a school could close following a flood warning, and this would be enforced by the management of the site by the school itself, this would not be an option for dwellings. A dwelling would also represent an intensive living environment being occupied at night when a flood event could occur.
- 9.24 The applicant has referred to consented residential schemes (ref: 13/00768, 15/02641, 15/02081 and 16/01769) which have been approved on the basis of an Flood Emergency Escape Plan, but each application should be determined on its own merits with regard to the development plan and other material considerations. The applications the applicant seeks to rely on are not directly comparable and are afforded very limited weight as material considerations against the failure of the scheme to comply with the NPPF which has significant weight as a material consideration; those applications also serve to demonstrate why it is important to determine applications based on planning policy to ensure consistency of decision making across the borough.
- 9.25 In terms of wider sustainable benefits, the applicant has put forward that the scheme has an opportunity to improve the visual amenity of the site and immediate surrounding area. It is accepted that residential development would be more in keeping with general character of the area, but with layout, scale and appearance reserved matters yet to be considered and thus no indication of what these might entail it is considered that this is given limited weight as a wider sustainable benefit – the need to ‘lift’ the development above the 1 in 100 year plus 35% climate change allowance and what that might look like has to be a factor in that consideration too. It is accepted that the proposal represents a net increase in 11 dwellings, which would contribute towards boosting the Council’s housing supply, and the location is considered to be sustainable one, sited within the built extent of Maidenhead with a range of services, facilities and transport links.

#### Paragraph 163 of the NPPF

- 9.26 When determining any planning application, paragraph 163 of the NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and through a site-specific FRA (and the sequential and exceptions tests as applicable) it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk within the site unless there are overriding reasons to prefer a different location; the development is appropriately flood resistant and resilient; it incorporates sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate; any residual risk can be safely managed and safe access and escape routes are included where appropriate as part of an agreed emergency plan.
- 9.27 Flood resistance and resilience, and safe access is assessed under the Exception Test. Turning to the remaining tests outlined in paragraph 163 of the NPPF, paragraph 5.4 of FRA Addendum Issue 3 confirms no building development will be located in Flood Zone 3b with built development located in the lowest areas of flood risk within the site (Flood Zone 3a and 2).
- 9.28 A SUDS scheme has been submitted to support the application which proposes source control and infiltration for surface water control of the site. This is acceptable in principle and sufficient details have been submitted to demonstrate that such a scheme would be effective and can be achieved on site. If minded to approve it is recommended that a detailed sustainable drainage scheme for the development including full details such as location; dimensions; gradients; invert levels; cover levels; calculations confirming compliance with the Non-statutory Technical Standards for Sustainable Drainage Systems based on infiltration testing results in accordance with BRE 365 if infiltration is employed; construction details; and maintenance is secured by condition.
- 9.29 Residual risk is defined in the SFRA as a measure of outstanding flood risks and uncertainties that have not been explicitly quantified and or accounted for. There is no substantive assessment of residual risk submitted with the application or information on how residual risk would be safety managed. However, as the proposal fails to demonstrate that flood risk can be safety managed during a 1 in 100 flood event plus climate change then it follows that the proposal would not be safe when considering any additional residual risk.

## Flood Risk Summary

- 9.30 The site lies within an area of flood risk: the site specific FRA and addendums to it fail to demonstrate that the proposal would not increase flood risk elsewhere, that it would be safe for its lifetime, and how residual risk would be safely managed. The proposal is therefore contrary to Local Plan policy F1 and paragraph 160 and 163 of the NPPF.

### **iii Impact on Character of the Area**

- 9.31 For an outline application, while all matters apart from access is reserved, it should be demonstrated that a proposal for 11 dwellings can be satisfactorily accommodated on site without undue harm to the character of the area.
- 9.32 Local Plan policy H10 states that new residential schemes will be required to display a high standard of design and landscaping and where possible enhance the existing environment, policy DG1 resists development which is cramped or which results in the loss of important features which contributes local character, and in established residential areas policy H11 resists development would introduces a scale or density which would be in incompatible with or cause damage to the character of the area. As a material consideration, BLPSV policy SP2 expects larger developments (over 10 residential units) to foster a sense of place, while SP3 requires development to achieve a high quality design and sets out design principles; these policies should be given significant weight. As a further material consideration, paragraph 122 of the NPPF states that planning decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed and attractive places. Paragraph 124 of the NPPF goes on to state that good design is a key aspect of sustainable development and indivisible from good planning, while paragraph 130 of the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunity available for improving the character and quality of an area and the way it functions.
- 9.33 The site is located within an area defined as a 'Leafy Residential Suburb' in the Council's Townscape Character Assessment, along with the adjacent houses sited to the north, south and west. Ray Mill Road East and the eastern boundary of the site forms the edge of this character area with houses to the north of Ray Mill Road East and houses to the east fronting onto Woodhurst Road falling within an area defined as a 'Late 20th century Suburb'.
- 9.34 The key characteristics of a 'Leafy Residential Suburb' is low to medium density residential development defined by suburban-style detached and semi-detached two-storey houses on medium to large plots on wide primary roads with narrower subsidiary streets terminating in cul-de-sacs or 'turning circles'. The leafy character is a result of properties being set significantly back from the road, often bounded by hedges to the front behind which are private gardens with mature trees and shrubs. The leafy character is reinforced by street trees and/or planting. The 'Late 20th Century Suburbs' are medium density residential suburbs consisting of long curvilinear feeder streets with short subsidiary roads culminating in cul-de-sacs. The built form is defined by suburban style demi-detached and detached two-storey houses set in regular plots with short front and longer back gardens. Consistency in plot form, density and building scale results in harmonised streetscape character. Car parking is provided off-street often on driveways (sometimes with garages) or communal parking bays. Unfenced front gardens, wide grass verges and shared amenity greenspace blur the boundary between public and private realms.

## Density

- 9.35 The proposed development would result in a density of around 16 dwellings per hectare (dph). This represents a lower density than the existing which is around 20 – 25 dph and would not represent the efficient use of land as encouraged in section 11 of the NPPF. Low density development is typically up to 35 dph, smaller dwellings on the same footprint would have been a means to increase density and make more efficient use of the land whilst maintaining character.

## Layout

- 9.36 The indicative layout comprises of detached dwellings on a short subsidiary street leading off a long feeder street (Ray Mill Road East) and terminating in a cul-de-sac. The houses are set in regular, medium sized plots with short front gardens and longer back gardens, and parking provision is off-street on driveways and garages. Overall, it is considered that the indicative layout conforms more to the characteristics of the 'Late 20th Century Suburbs' but located on the edge of the 'Leafy Residential Suburbs' area as it transitions to 'Late 20th Century Suburbs', and given that the application site would be viewed in close connection with both character areas, this is considered to be acceptable.
- 9.37 It has been advised that the land adjacent to the watercourse / ditch to the east of the site would remain in ownership of Claire's Court School, but the indicative layout shows how a footway access can be incorporated to ensure there would be access for maintenance.
- 9.38 Existing trees are considered to contribute positively to the visual amenity of the area and Local Plan policy N6 requires new development to allow for the retention of existing suitable tree wherever practicable and should include protection measures necessary to protect trees during development. Where the amenity value of trees outweighs the justification for development then planning permission may be refused. As a material consideration, BLPSV NR2 states that development proposals should carefully consider the impact of proposed development on existing trees and where harm is unavoidable provide appropriate mitigation measure, but where the amenity value of trees outweighs the justification for development than planning permission may be refused. As originally submitted there were concerns over the impact to tree no. 1 (London Plane), no. 2 (Scots Pine) and no. 3 (Oak) as shown on the Tree Constraints Plan, ref: 8441-KC-XX-YTREE-TCP01 Rev. A, due to a proposed pedestrian walkaway sited adjacent to the main vehicular access into the site. However, the pedestrian walkway has subsequently been removed from the scheme and the vehicular access has been amended so that it is now a 'shared surface'. The acceptability of the shared surface in terms of highway safety is assessed below in paragraph 9.54.
- 9.39 Tree no. 21 is an Oak which due to its size has the potential to be visually and physically dominant overshadowing dwellings and gardens. Overlaying the indicative site layout with the Tree Constraints Plan shows that the crown of the Oak would cover around a quarter of the garden for plot no 3 (as indicated on the on Tree Protection Plan, ref: 8441-KC-XX-YTREE-TPP02 Rev B). This would result in poor amenity for this dwelling, and crown reduction could result in a detrimental impact to the health and longevity of the Oak. At reserved matters alterations to the siting or shape of the house would be expected to reduce the conflict.
- 9.40 Trees no. 6-18 along the northern boundary are shown to be removed, as a row of poor quality Leyland Cypress trees there is no objection. The applicant has confirmed that they will be replaced with hedging and standard trees as part of a reserved matters application where landscaping would be considered. It would be desirable to retain tree no. 45 (Lime), which is proposed to be removed, as it is visible from Ray Mill Road East and therefore contributes to public visual amenity, but it is accepted that a bat-house is required in this location and therefore on balance its loss is acceptable.

#### **iv Open Space Provision In New Residential Development**

- 9.41 Local Plan policy R3, R4 and R5 requires this site to make appropriate provision for public open space within the development. In this case, the requirement is for the provision of a Local Area for Play (LAP). National guidance (Guidance for Outdoor Sports and Play: Beyond the Six Acre Standards), which supersedes the standards for a LAP set out in Appendix 2 of the Local Plan, sets out the minimum dimensions for a LAP as 10 x 10m. The indicative layout shows approximately 5.5% of open space (390sqm) can be accommodated on site, which is sufficient to accommodate a LAP and therefore considered to be acceptable.

#### **v Housing Mix**

- 9.42 Local Plan policy H8 states that the Council will expect development to contribute towards improving the range of housing accommodation within the Borough and will favour proposals which include dwellings for small householders and those with special needs. As a material

consideration, BLPSV policy HO2 states that the provision of new homes should contribute to meeting the housing needs of the current and projected households by providing an appropriate mix of dwelling types and sizes reflecting most up-to-date evidence.

- 9.43 The proposed housing mix is set out in paragraph 4.3 of the Planning and Affordable Housing Statement. The most up-to-date evidence on identified need is set out in the Berkshire Strategic Housing Market Assessment (SHMA) (2016) with the utmost need being 3-bed units. In comparison with this identified need by number of bedrooms, with its focus on 5 bedroom units the proposed development would not provide an appropriate mix for market housing. However, the proposed balance is not in itself objectionable when compared with the completions by housing size for the past 3 years (2015 to 2018) (Monitoring Report 2018, Table 7) and given that the Council's 5 Year Housing Land Supply Statement (March 2019) reports a housing delivery rate of 97% based on the 2018 Housing Delivery Test. The completions by housing size relate to all housing, but given that affordable housing as a percentage of total net completions are 23% (2013/14), 14.2% (2014/15), 2.5% (2015/16), 2.6% (2016/17) and 4.5% (2017/18), the picture still suggests that the proposal would contribute to the apparent shortfall of 4+ bed housing.

|                                    | 1 bed        | 2 bed          | 3 bed          | 4+ bed         |
|------------------------------------|--------------|----------------|----------------|----------------|
| Need (2013 – 2036) (Market Sector) | 966<br>7.9%  | 3,508<br>28.6% | 4,737<br>38.6% | 3,074<br>25.0% |
| Completions (2013 – 2018) (Total)  | 531<br>20.5% | 1112<br>43%    | 486<br>18.8%   | 453<br>17.5%   |
| Proposed (Market Sector)           | 0            | 2              | 0              | 9              |

- 9.44 If minded to approve it is recommended that the proposed housing mix should be secured by condition. The viability report submitted to support the proposed affordable housing provision and subsequent viability assessment is based on this schedule of accommodation. Changes to the housing mix would have implications on these matters, which justifies a condition to secure the proposed housing mix in the interest of proper planning.

#### **vi Affordable Housing**

- 9.45 For residential development sites of 0.5ha or over, as in this case, Local Plan policy H3 requires the provision of 30% of the total units provided on site as Affordable Housing. BLPSV Policy HO3 is given limited weight due to the extent of unresolved objections but for a scheme of this size would result in the same affordable housing requirement. On this basis 3 units should be affordable as part of this proposal.
- 9.46 Policy H3 of the adopted Plan is silent on tenure, but it makes reference to identified local need which the SHMA sets out in detail. The SHMA sets out a tenure of 80% of social/affordable rented and 20% intermediate housing to meet, which would equate to 2 units of social/affordable rented and 1 units of intermediate housing. Paragraph 64 of the NPPF, which is a material consideration, states that at least 10% of the homes are expected to be available for affordable home ownership as part of the overall affordable housing contribution from the site unless this would exceed the level of affordable housing required in the area or prejudice the ability to meet the identified affordable housing need within the Borough. This would equate to 1 units. 'Affordable homes ownership' is not defined but on the basis of the definition of affordable housing in Appendix 2 of the NPPF the indication is that this would be made up of starter homes, discounted market sales housing or other affordable routes to home ownership (shared ownership or shared equity units). In this respect, while the SHMA does identify the need for affordable housing in this borough as being predominantly social rent and then affordable rent, the NPPF is more recent and given significant weight. As such, for a policy compliant scheme the expectation would be that the scheme would bring no more than 1 units forward for Low Cost Home Ownership and the remainder for rented products.
- 9.47 The proposal is for 11 residential dwellings all of which are private, but with 3 affordable units (30%) proposed at 1 College Avenue (ref: 17/04001/OUT). The Council's Affordable Housing Planning Guidance advises that affordable housing provision can be provided through a proposed alternative site and so there is no objection in principle to the provision of the affordable

housing at 1 College Avenue provided that both schemes are approved and can be tied together through a legal agreement.

- 9.48 The proposal is for 100% of the 3 units to be shared ownership. However, the applicant submitted a viability report in May 2018 in support of this planning application that sought to demonstrate that the proposed development is unable to support a tenure mix with a higher proportion of social/affordable rent in line with need. This was independently assessed by the District Valuer. It should be noted that the funding of the new school subject to planning application ref: 17/04018/FULL is being met from a combination of sources including the land receipts from this site (and the 2 others at College Avenue and The Ridgeway), and therefore included in the land value for the purposes of the viability assessment. The District Valuer concluded that the proposal scheme is deliverable but a higher proportion of social/affordable rent would be unviable.
- 9.49 However, it should be noted that if the proposal under 17/04001/OUT at 1 College Avenue were to be refused in accordance with the officer recommendation then the affordable housing element associated with this application cannot be achieved and it should be refused on this basis.

## **vii Highways**

- 9.50 Local Plan policy T5 requires all development proposals to comply with adopted highway design standards, policy P4 requires all development proposals to accord with adopted car parking standards, while policy T7 seeks to ensure that new development makes appropriate provision for cyclists including cycle parking. As a material consideration, BLPSV policy IF2 states that development proposals should support the policies and objectives of the Transport Strategy as set out in the Local Transport Plan and provide car and cycle parking in accordance with the current Parking Strategy; this policy should be afforded significant weight in the consideration of this application. As a further material consideration, paragraph 108 of the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken up; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network or on highway safety should be cost effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.51 It should be noted that highways comments reported in section 8 of this report were provided prior to the withdrawal of layout and scale for consideration. However, the access off Ray Mill Road East is unchanged as is the number of residential units and schedule of accommodation and therefore the comments are still considered applicable.

### Trip Generation

- 9.52 A traffic survey to/from the school shows that the school generated 57 inbound and 20 outbound vehicles movements during the morning peak, while the afternoon peak shows the school generated 15 inbound and 29 outbound vehicle movements. It should be noted that this does not include pick-up and drop-offs by parents / guardians as they are restricted from school grounds, and therefore the number of inbound and outbound vehicles movements generated by the school during am and pm peaks within the immediate locality are likely to be higher. To determine the potential number of trips generated by the proposed residential development the national TRICS database was interrogated and, based on a comparable residential site of similar size and accessibility criteria, the data demonstrates that the development would potentially generate 2 inbound and 6 outbound during the morning peak and 6 inbound and 3 outbound during the afternoon peak. This represents a reduction in vehicular activity during the peak times, and so the proposal would not result in undue harm to the local highway infrastructure network in terms of capacity and congestion

### Access

- 9.53 The proposal seeks to retain the existing vehicular access of Ray Mill Road East. Based on drawing ref: 2107.2.C-1005-X the existing access will be able to achieve the best possible

visibility splays of 2.4m x 16m to the left by 2.4m x 15m to the right. This is below the 25m required: it is considered that the visibility splays are acceptable in this particular instance as the access is as existing, there would be a likely reduction in vehicle movements and there have been no reported injury accidents near the access within the last 10 years.

- 9.54 The shared surface proposed is considered acceptable as the width of the access (4.8m-5m) would meet standards in the Council's Highway Design Guide for a shared surface serving a cul-de-sac with up to 25 dwellings. Drawing ref: 2107.2.C-1005-X also shows that a new set of gates at the access. The gates will be set back 12m from the back edge of the carriageway to enable all vehicles to safety pull off the adopted highway before gates are opened and closed, and therefore acceptable. For these reason the proposed development would not result in undue harm to highway safety.

#### Car Parking

- 9.55 Car Parking is normally a consideration with layout, and therefore a reserved matter, however the Design and Access Statement states that the school has 47 parking spaces which are used by 76 members of staff while parents / guardians are prohibited from the school site to drop off / pick up pupils. As such, there is currently a high demand for on-street parking within the vicinity of the school. The proposed development is for 11 x 4+ bed houses which would generate a demand for 3 on-site car parking spaces per dwelling. The indicative layout illustrates at least 3 car parking spaces per dwelling. Therefore, the proposal is considered to remove a significant demand for on-street parking, which would be a highway benefit.

#### Cycle Parking and Refuse Provision

- 9.56 At least 1 cycle parking space should be provided for each unit. It is considered that there would be sufficient space within the site and within the relevant plots to accommodate this, details of which can be secured by condition.
- 9.57 Layout is a reserved matter, but a swept path analysis would be required to demonstrate that a refuse vehicle (2.5m x 11.35m) can enter and exit the site in forward gear and refuse storage and collection points should comply with the guidelines set out in Manual for Streets. If minded to approve it is recommended that this is secured by condition.

#### **viii Residential Amenity**

- 9.58 Local Plan policy H11 states that planning permission will not be granted for schemes which introduce a scale or density of new development which would cause damage to the amenity of the area. As a material consideration of significant weight, BLPSV Policy SP3 and HO5 also seeks to ensure no undue harm to residential amenity enjoyed by the occupants of adjoining properties. Paragraph 127 of the NPPF states that planning decisions should create places with a high standard of amenity for existing and future users but this is balanced against paragraph 123 which to ensure that developments make optimal use of land when considering applications for housing a local planning authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
- 9.59 The proposal is sited within a residential area and close to neighbouring residences. Based on the indicative height parameters and layout there is no indication that a scheme with an acceptable impact on neighbouring amenity could not be delivered. The indicative layout shows that it is possible to achieve back-to-back or side-to-back distances of over 21m between the proposed houses and the existing houses on Ray Park Avenue, Camperdown, Woodhurst Road and Ray Mill Road East with the exception of the proposed dwelling to the north-west corner of the site. This distance would be sufficient to mitigate any undue loss of light, visual overbearing and overlooking to habitable rooms. There would be potential for views into neighbouring rear gardens, but given the mutual level of overlooking that is common in a suburban area this would not likely to be considered to result in significant harm to neighbouring amenity. If approved regard would have to be had to the finished floor levels of dwellings and the height of any

required boundary treatment. In relation to the proposed house to the north-west corner of the site, the side elevation of the two-and-half storey element would be sited at a greater distance from the rear elevation of no. 84 – 90 Ray Mill Road East (approximately 18m) than the existing two and half storey school building (approximately 16m). The width of built development proposed across the shared boundary would also be reduced. As such, it is not considered that there would be undue harm in terms of loss of light, visual overbearing or overlooking to this neighbouring property as a result of the development.

- 9.60 Concerns have been raised by local residents over potential noise and disturbances during construction works, and light pollution and noise and disturbance from the operation of the residential development. If minded to approve, it is considered the effects of noise, vibration, dust and site lighting during the construction of the development can be mitigated by a construction environmental management plan. In terms of light pollution, if minded to approve details of the external lighting including the siting, design (luminaire type and profiles, mounting height, aiming angles, and energy efficient measures) and beam orientation can be secured and controlled through a condition. Given the nature of residential use it is not considered that there would be undue noise and disturbances, but any noise that unreasonably and substantially interferes with the use or enjoyment of a home or other premises is covered by the Environmental Protection Act 1990.
- 9.61 There are no specific Local Plan policies regarding the provision of suitable residential amenity for future occupants of the development. However, as a material consideration of significant weight, BLPSV Policy HO5 seeks to ensure satisfactory residential amenity for the proposed accommodation, while paragraph 127 of the NPPF states that planning decisions should create places with a high standard of amenity for existing and future users. The indicative site layout show that the site could accommodate a development for 11 dwellings to mitigate any potential loss of light, overlooking or visual overbearing for the proposed houses due to their siting, orientation and separation distances. Individual layouts for the proposed houses have not been provided with this application, but based on the indicative scale of the proposed units it is considered that all units would have sufficient internal floor space to accommodate adequate room shapes and sizes.

## **ix Ecology**

- 9.62 As a material consideration Paragraph 175 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for then planning permission should be refused. BLPSV Policy NR3, which should be allocated significant weight in the consideration of this application, states that proposals should demonstrate how they main, protect and enhance the biodiversity of application sites and requires proposals to mitigate or as a last resort compensate for any adverse biodiversity impacts where unavoidable adverse impact on habitats and biodiversity arise. Protecting and enhancing the natural environment forms part of the 'Environmental' dimension of 'Sustainable Development' and paragraph 170 of the NPPF states that planning decisions should minimise impacts on and provide net gains for biodiversity.

### Bats

- 9.63 In 2014 the buildings on site were assessed for their potential to support roosting bats and bat dropping were recorded and 319 soprano pipistrelle bats were counted emerging from Building A, as identified on Map 3 within the submitted Ecology Report and Mitigation Strategy. Following inspections of all buildings in 2015 Building A was confirmed as a roost of soprano pipistrelles, Building B was recorded as a confirmed roost of brown long-eared bats and Building D was recorded as having low potential to support bats. The remaining 5 buildings and all trees within the and immediately bordering the site were considered to have negligible potential to support bats. During a further survey of Building A, B and D in 2015 and 2016, soprano pipistrelles were recorded emerging and returning to roost from Building A and B with no bats recorded within Building D. It has been concluded that Building A supports a moderate to large maternity roost and possible hibernation roost of soprano pipistrelle bats and Building B is a confirmed small non-breeding day roost for soprano pipistrelles and a historic roost for brown-long eared bats. The bat assemblage at the site is considered to be of county importance.

- 9.64 Details of mitigation and compensation measures to ensure the maintenance of the population of bats on site has been proposed which includes updated emergence / re-entry surveys annually in the lead up to a reserved matters application; further internal and external surveys and emergence survey immediately prior to the commencement of development; dedicated bat house close to the current roosts that will be constructed at least one maternity season prior to the demolition of the buildings; installation of tree mounted bat boxes prior to commencement of works; timing of works to buildings to avoid the hibernation and maternity periods; the soft strip of buildings by hand; ecological supervision of works to buildings with confirmed roost features or buildings with bat potential; measures to ensure noise and lighting during the construction phase will not impact bats; sensitive lighting post construction; and maintenance of commuting features and vegetation cover for bats. It is considered that the implementation of these measure would adequately mitigate and compensate for the disturbance and loss of these roosts. These mitigation and compensation measures will be detailed within a method statement to be submitted to Natural England to secure a European Protected Species licence (EPSL) prior to the commencement of works.
- 9.65 It is also recommended that a condition is attached to any permission requiring that the results of the updated bat surveys should be submitted as part of any subsequent reserved matters application. This is to ensure that any changes to the mitigation or compensation required as a result of the updated surveys are taken into account.

#### Amphibians

- 9.66 There are a number of ponds and lakes within 500m of the application site which have the potential to support amphibians, but separated from the development by roads and residential development. It is considered that the site itself provides limited suitability for these species, and therefore no further survey for these species is required.

#### Breeding Birds

- 9.67 There was evidence of birds nesting within the loft of Building 2. If minded to approve, it is recommended that an informative note is included to advise that the removal of vegetation and bird boxes, and building demolition should be timed to void the breeding bird season.

#### Biodiversity Enhancements

- 9.68 The submitted ecology report provides recommendations for ecological enhancements including bird boxes to retained mature trees, creation of a pond within the site boundaries, an invertebrate logger on the eastern boundary of the site close to the dry ditch to benefit saproxylic invertebrates, and the planting of native species. If minded to approve it is recommended that the biodiversity enhancements detailed in the Ecology Report are secured by condition.

### **x Archaeology**

- 9.69 Local Plan policy ARCH 3 states that planning permission will not be granted for proposals which appear likely to adversely affect archaeological sites of unknown importance unless adequate evaluation enabling the full implications of the development on archaeological interests is carried out prior to the determination of the application. This is supported by paragraph 189 of the NPPF which states that where a development site has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.70 Although Berkshire Archaeology's Historic Environmental Record shows no known heritage assets within or in close proximity to the application site there is potential archaeological implications with this proposal given the size of the site and undeveloped areas within it, and the known archaeology of the wider Middle Thames Valley that includes prehistoric, Neolithic, Bronze

Age, and Roman remains. It is therefore considered that further archaeological investigation would be merited. Paragraph 15.33 of the Very Special Circumstances Report states that there are no archaeological impacts from the development at the Ray Mill Road East site, although no substantive evidence has been submitted to support. As such, if minded to approve, a programme of archaeological field evaluation in accordance with a written scheme of investigation, and any subsequent mitigation strategy, can be secured by condition. In this instance it is considered that any further archaeological investigation can be undertaken post-permission as there has been some previous development on the site.

## **xi Planning Balance**

9.71 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Footnote 7 of the NPPF (2019) clarifies that:

*'out-of-date policies include, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer)'*

9.72 Following the Regulation 19 consultation on the Submission Version of the Local Plan, the Council formally submitted the BLPSV for Examination in January 2018. The Borough Local Plan Submissions Version sets out a stepped housing trajectory over the plan period (2013-2033) to meet the Boroughs Housing need. However, the BLPSV is not yet adopted planning policy and the Council's adopted Local Plan is more than five years old. Therefore, for the purposes of decision making, currently the starting point for calculating the 5 year housing land supply should be the 'standard method' as set out in the NPPF (2019). At the time of writing, the LPA currently cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).

9.73 However footnote 6 of the NPPF further clarifies that section d(i) of paragraph 11 of the NPPF (2019) is not applied where '*policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*'. This includes areas at risk of flooding. Where there are such restrictive policies in play, and their requirements are not satisfied by the development proposal, the "tilted balance" does not apply, and the planning balance is to be carried out having regard to the statutory test in section 38(6) of the 2004 Act. In this instance, subsection d(i) of paragraph 11 is engaged as flood risk policies in the NPPF provides a clear reason for refusing the development proposed as set out in paragraphs 9.14 to 9.30 above.

## Conclusion

9.74 Accordingly, in the ordinary planning balance, while there are benefits that weigh in favour of supporting the scheme, such as the contribution the new dwellings would make (including affordable housing) to the supply of housing within the Royal Borough, less traffic movements to and from the site and biodiversity enhancements, these do not outweigh the risk to lives and properties that would occur as a direct result of the site's location within an area at high risk from flooding. In the event of a flood, which is highly probable over the lifetime of the dwellings, residents would not be able to escape safely from their homes and it would not be safe for the emergency services to access the site. Flood Evacuation Plans have been shown to be ineffective as people prefer to stay in their homes not fully aware of the risks involved. In addition, the development would likely lead to a reduction in the capacity of the site to store flood

water such that, in a flood event, water would be displaced to land outside the site, that does not currently flood, increasing the risk to more people and properties. The proposal fails to accord with the development plan and having regard to material considerations a different decision is not indicated, therefore the application is recommended for refusal.

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

10.1 Concerns have been raised by local residents on the increased pressure social infrastructure including schools and GP surgeries. To help delivery of infrastructure to support growth of the area, the Council has approved a Community Infrastructure Level (CIL). In line with the Council's Charging Schedule the proposal development would be CIL liable. The required CIL payment for the proposed development would be £100 per square metre based upon the chargeable residential floor area. The chargeable floor area would be calculated at the reserved matters stage, but based on the floor area provided in the viability assessment this may be a figure of around £255,000.

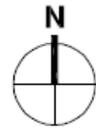
## **11. APPENDICES TO THIS REPORT**

- Appendix A – Site Location Plan
- Appendix B – Indicative Site Layout

## **12. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED**

1. The application site is located in Flood Zone 3 where there is a high risk of flooding and the proposal is for a more vulnerable type of use, as identified in Table 2: Flood risk vulnerability classification of National Planning Policy Guidance, 2014. The application has failed to demonstrate that safe escape from the site and safe access to the site could be achieved in the event of a flood, resulting in lives and properties being put at risk. In addition, the application has failed to demonstrate that it would not reduce the capacity of the site to store water in the event of a flood and not displace that flood water outside the site further increasing risk to lives and properties. Accordingly, the application has failed to demonstrate that the proposal would be safe over its lifetime and subsequently fails the Exception Test and for this reason the proposal is contrary to adopted Policy F1 of the Windsor and Maidenhead Local Plan, 1999 (including Adopted Alterations 2003), Policy NR1 of the Borough Local Plan Submission Version 2018 and paragraphs 155, 160 and 163 of the National Planning Policy Framework (2019).
2. The proposal would result in the loss of a community facility and it has not been demonstrated that there is no longer a need for the facility within the local area or that an acceptable alternative is to be provided elsewhere within the local area. As such, the proposal is contrary to policy CF1 of the Windsor and Maidenhead Local Plan, 1999 (including Adopted Alterations 2003), policy IF7 of the Borough Local Plan Submission Version 2018, and f paragraph 94 of the National Planning Policy Framework (2019).
3. In the absence of a S106 legal agreement the proposed development fails to secure a satisfactory level of affordable housing the proposal is contrary to policy H3 of the Windsor and Maidenhead Local Plan, 1999 (including Adopted Alterations 2003), policy HO3 of the Borough Local Plan Submission Version 2018 and paragraph 64 of the National Planning Policy Framework (2019).

Appendix A – Site Location Plan



# Appendix B – Indicative Site Layout

