

MAIDENHEAD DEVELOPMENT CONTROL PANEL

16 October 2019

Item: 9

Application No.:	19/02104/FULL
Location:	1 Lonsdale Close Maidenhead SL6 8RX
Proposal:	First floor side extension and the sub division of the property into two separate dwellings with new boundary treatment, hardstanding and 2 no. bike stores
Applicant:	Mr Akhtar
Agent:	Mr Mumtaz Alam
Parish/Ward:	Maidenhead Unparished/Riverside

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

1. SUMMARY

- 1.1 The application proposes a first floor side extension and the subdivision of the plot to provide two dwellings. The site is situated in flood zone 3 (high risk flooding). The application has failed to demonstrate that the Sequential Test (flood risk), to show that there are no sequentially preferable sites at a lower risk of flooding to accommodate this development is passed. This conflicts with the requirements of the National Planning Policy Framework (NPPF).
- 1.2 The scheme is also considered to provide a poor standard of amenity for the future occupiers of plot 1, as their rear garden would be overlooked. It is acknowledged that the Council cannot demonstrate a five year housing land supply, however, the 'tilted balance' detailed in paragraph 11(d) of the NPPF is not engaged as the site is situated in the flood zone and there is a clear reason for refusing the development on flooding grounds.

It is recommended the Panel REFUSES planning permission for the following summarised reasons (the full reasons are identified in Section 12 of this report):	
1.	The site is situated within flood zone 3 (high risk flooding). The application fails to demonstrate that the Sequential Test (flood risk) is passed.
2.	The scheme fails to provide a good standard of amenity for the future occupiers of plot 1.

2. REASON FOR PANEL DETERMINATION

- 2.1 At the request of Councillor Targowski, to ensure the Council not only acts in a fair and transparent way, but is seen to do so, and to ensure the process of decision making is therefore transparent in nature.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site relates to an existing semi-detached (link-detached) dwelling and its garden area and measures circa 0.03 hectares. The site is located in the built up area of Maidenhead in a predominantly residential area. The application site is relatively flat.
- 3.2 According to the Environment Agency Flood Map for planning, the site is situated in flood zone 3 (high risk flooding).

4. KEY CONSTRAINTS

- 4.1 Flood risk

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The application proposes a first floor side extension and the sub division of the property into two separate dwellings with new boundary treatment, hardstanding and 2. bike stores.
- 5.2 One of the dwellings would have 2 bedrooms, and the other dwelling would have 1 bedroom. Existing hardstanding to the front of the site would be used to park 3 cars.

Reference	Description	Decision
18/01408/FULL	First floor side extension	Permitted on the 6 th July 2018.
19/00832/FULL	First floor side extension and the sub division of the property into two separate dwellings with new boundary treatment, hardstanding and 2 no.bike stores.	Refused on the 22 nd May 2019 on the following grounds: -failure to pass the sequential test- flood risk -cramped form of development -poor standard of amenity for future occupiers of plot 1.

6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

- 6.1 The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1, H10,H11
Highways	P4 and T5
Flood Risk	F1

These policies can be found at

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 4- Decision-making

Section 5- Delivering a sufficient supply of homes

Section 9- Promoting Sustainable Transport

Section 12- Achieving well-designed places

Section 14- Meeting the challenge of climate change, flooding and coastal change

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Sustainable Transport	IF2
Manages flood risk and waterways	NR1

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 Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents have now been submitted to the Secretary of State for examination. 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 and allocations 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.

7.2 This document can be found at:
https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1

Supplementary Planning Documents

- RBWM Interpretation of Policy F1

Other Local Strategies or Publications

7.3 Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy

More information on these documents can be found at:

https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

5 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 22nd August 2019.

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

Comment		Where in the report this is considered
1.	Overlooking to 198 Blackamoor Lane	9.11
2.	Proposal provides inadequate parking, proposal will increase parking problems in the area.	9.12
3.	A conifer hedge needs attention- it is overhanging Blackamoor Lane	Not relevant to the consideration of this planning application.
4.	The scheme is overdevelopment of the site.	9.9

Consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	No objection subject to a condition. The EA advise it is for the LPA to assess if the Sequential Test is passed, and to assess the low hazard escape route.	9.2-9.6
Environmental Protection	Offers no objection, subject to a condition for a CEMP, and hours restricting vehicle collections.	These conditions are not considered to be necessary.
Highway Authority	No objection subject to conditions.	9.12

Others

Group	Comment	Where in the report this is considered
Maidenhead Civic Society	Concerns over inadequate parking. The scheme represents overdevelopment of the site. The amenity space for plot 1 is inadequate.	Addressed in report.

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Flood Risk
- ii Impact on the character of the area
- iii Residential Amenity
- iv Transport
- v Conclusion

Flood Risk

9.2 The Environment Agency Flood Maps show that the site is located within flood zone 3, and the Environment Agency in their comments have confirmed this. On the previously refused application, the LPA applied the precautionary approach in line with the Council's Strategic Flood Risk Assessment which assumed the site as being functional flood plain (flood zone 3b). In this current application, the Environment Agency has verbally advised that their records do not show the site to be in the functional flood plain (3b). As such, the site is within flood zone 3a.

9.3 The NPPF (2019) is a material consideration of significant weight. At paragraph 158 of the NPPF, it sets out that the Sequential Test should be applied for developments on sites at risk of flooding. The aim of the Sequential Test is to steer new development to areas at lowest risk of flooding.

9.4 The Sequential Test submitted with this application is based on the application site being in flood zone 2 (medium risk flooding) and discounts other sites in flood zones 2 and 3. The Sequential Test should consider other sites within the Borough within flood zones 1 and 2 (lower risk of flooding than this application site). In addition, it would appear that some sites have been discounted as they are not available to the wider community, but the document does not explain why the sites/buildings are not available to the wider community (other than them being occupied). Sites within the Borough, not just within a 3 mile radius, should also be considered when applying the Sequential Test (as has been done for this application).

- 9.5 It is not considered that it has been demonstrated that the Sequential Test has been passed.
- 9.6 As the LPA is not of the view that the Sequential Test is passed, there is no need to go on to look at whether the Exceptions Test is passed. The Exceptions Test would be required to be passed (provided the Sequential Test was passed), as this is a form of more vulnerable development proposed in flood zone 3.

Impact on the character of the area

- 9.7 Planning permission was granted for a first floor side extension under permission reference 18/01408/FULL. The proposed extension under this current planning application, is the same as that already granted planning permission. The appearance of the extension has already therefore been accepted, and the planning permission is extant. This is a material consideration of significant weight to the determination of this application.
- 9.8 In the previously refused application for the subdivision of the plot to provide 2 dwellings, it was considered that as the scheme would carve up the existing garden area into two, and would result in additional hardstanding being laid down to accommodate the additional car parking for the new dwelling, that this represented a cramped form of development within the area.
- 9.9 Whilst this current application still proposes to subdivide the plot, the additional hardstanding for the car parking areas in the previous scheme has been omitted, and the scheme proposes 3 car parking spaces on the existing hardstanding to the front of the dwelling. Given this change to the scheme, the subdivision of the plot in itself is not considered to cause harm to the character of the area.

Residential Amenity

- 9.10 The existing garden area to 1 Lonsdale Close is already overlooked by 206A Blackamoor Lane. However, the existing dwelling has a side garden area, which provides an area of amenity space free from this overlooking. This proposal would sub-divide the garden, and it means that the occupiers of plot 1 would not have outdoor amenity space free from being overlooked. The scheme conflicts with policy H12 of the Local Plan and with paragraph 127 of the NPPF, which sets out that developments should provide a high standard of amenity for existing and future users. It also conflicts with paragraph 129 of the National Design Guide 2019 which states, amongst other things, that amenity spaces should have a reasonable degree of privacy.
- 9.11 Given the distances between neighbouring dwellings and the orientation of the proposed extension, it is not considered unacceptable overlooking to neighbouring dwellings would arise.

Transport

- 9.12 It is not considered that the creation of 1 additional dwelling would have an unacceptable impact on transport. The scheme would provide sufficient on-site car parking, in accordance with the Council's parking standards. Two parking spaces would be provided for the 2 bedroom dwelling, and 1 car parking space would be provided for the 1 bedroom dwelling. It is noted that the proposed 1 bedroom dwelling has a room for an office, however, this room is small and would not be large enough to be counted as a bedroom (it would fall short of the space for a single bedroom as set out in the Technical housing standards – nationally described space standard).

Conclusion

Housing Land Supply

- 9.13 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.*

9.14 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..).'

9.15 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 (5hyr hls) is the 'standard method' as set out in the NPPF (2019).

9.16 At the time of writing, the Council is not able to demonstrate a 5 year housing land supply.

9.17 However footnote 6 of the NPPF (2019) then 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 footnote refers to areas at risk of flooding. In this case, the scheme is being refused on flood risk grounds, and as such the tilted balance is not engaged in determining this application but rather it should be considered in the ordinary way.

9.18 The scheme is considered to be unacceptable on flooding grounds. It is also considered that the future occupiers of plot 1 would have a poor standard of amenity. The scheme is considered to conflict with the development plan, and the provision of 1 additional dwelling is not considered to represent a material consideration that would indicate planning permission should be granted.

10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

10.1 The development is CIL liable.

11. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B – Proposed site layout
- Appendix C – Elevations and Floor plans
- Appendix D – Previously refused scheme

12. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

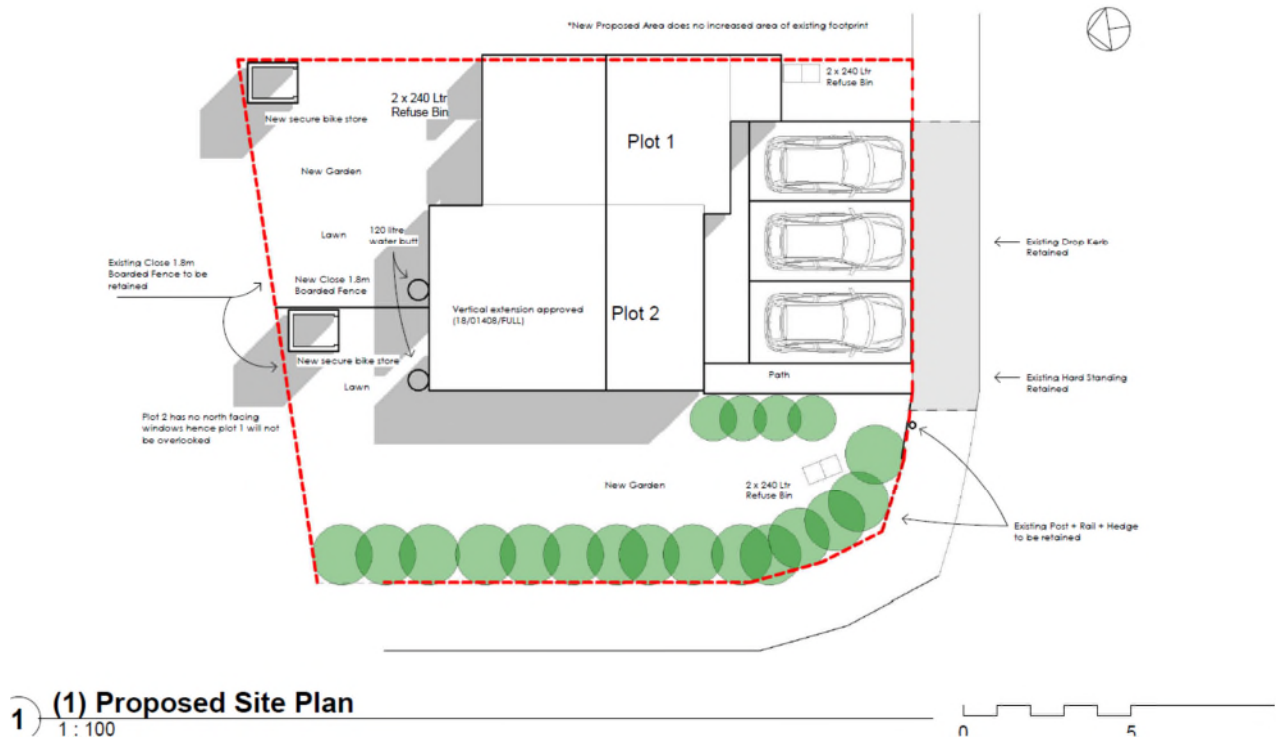
1 The application fails to demonstrate that the Sequential Test for flood risk is passed, in accordance with the requirements of paragraph 158 of the National Planning Policy Framework 2019. The scheme also conflicts with Policy F1 of the Adopted Local Plan, and with Paragraph 163 of the National Planning Policy Framework.

2 The outdoor amenity space for plot 1 would be overlooked by the occupiers of numbers 206A and 206B Blackamoor Lane, and this would provide a poor quality of outdoor amenity space for future occupiers. This conflicts with policy H12 of the adopted Local Plan and with the requirements of paragraph 127 of the National Planning Policy Framework which seek to ensure that developments provide a high standard of amenity for all existing and future occupiers.

Appendix A- Site location plan



Appendix B- Proposed site layout

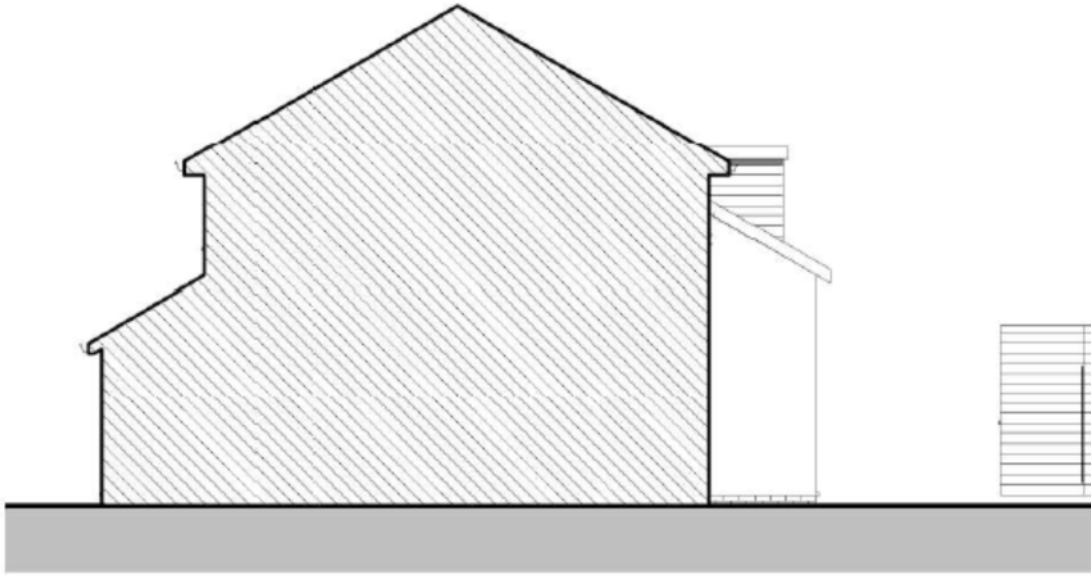




1 Proposed South
1 : 100

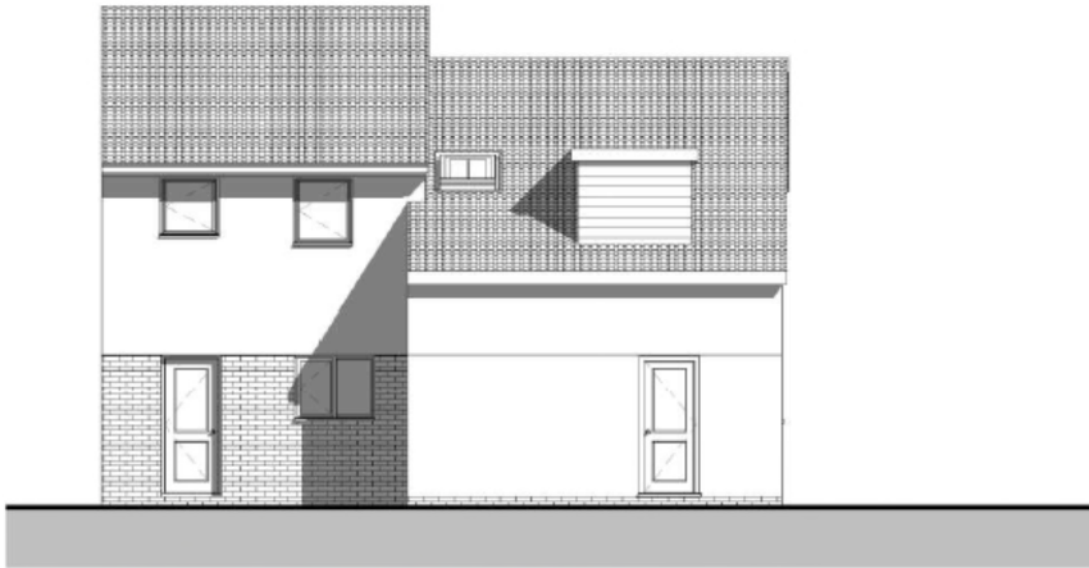


3 Proposed West
1 : 100



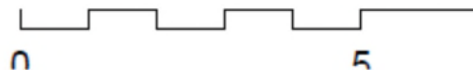
2 Proposed East

1 : 100



4 Proposed North

1 : 100





Appendix D- Previously refused scheme

