

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

PANEL UPDATE

Application No.:	21/01244/OUT
Location:	Land at 19 Old Ferry Drive Wraysbury Staines
Proposal:	Outline application for access and layout only to be considered at this stage with all other matters to be reserved for the construction of x32 dwellings (comprising x14 two-storey affordable retirement living units, x4 two-storey detached dwellings and x14 two-storey semi-detached dwellings), revised pedestrian and vehicular access, local business/community hub and children's play area, following removal of existing structures.
Applicant:	OSB Ltd
Agent:	Mr Alan Gunne-Jones
Parish/Ward:	Datchet, Horton and Wraysbury
If you have a question about this report, please contact: Michael Lee michael.lee@rbwm.gov.uk	

1. SUMMARY

- 1.1 The Panel Update Report has been compiled as a result of additional technical reports and documentation submitted by the applicant in response to comments from consultees and the Committee Report.

It is recommended the Committee refuses planning permission for the reasons set out in the report (copied below) with two additional reasons for refusal set out at Reasons 9 and 10 below:

1. The application site does not fall within the recognised Green Belt settlement of Wraysbury or within the wider understanding of what comprises the village. Furthermore, the proposed development would not constitute limited infilling within a built up frontage. Therefore, the proposal represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. Furthermore, the proposal would result in harm to the openness of the Green Belt and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly overcome the harm to the Green Belt and any other harm. The proposal is therefore contrary to paragraphs 147, 148 and 149 of the National Planning Policy Framework (2021) and saved policies GB1, GB2(a) and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).

2. The application site falls within Environment Agency flood zones, 2, 3a and 3b. It has not been demonstrated that the proposed development lies outside the functional floodplain (3b) wherein residential development is unacceptable in principle.

Furthermore, the proposal, by reason of its siting in an area where there is a high probability of flooding, fails to demonstrate that there are no other reasonably available sites appropriate for the proposed development with a lower risk of flooding than the application site. The application therefore fails the sequential test.

In addition, the submitted flood risk assessment fails to adequately assess the flood risk posed by the development. Accordingly, the application has not demonstrated that the proposed development would be safe for its lifetime without increasing flood risk elsewhere.

For these reasons, the proposal is contrary to Policy F1 of the adopted Royal Borough of Windsor and Maidenhead Local Plan 1999 (including adopted alterations 2003), Policy NR1 of the emerging Borough Local Plan (Main Modifications 2021) and paragraphs 163 - 173 of the National Planning Policy Framework 2021.

3. The proposal comprises residential intensification and community facilities within a rural countryside location which suffers from poor accessibility and reliance on the private motor car. The road network serving the site is poorly lit and the footpaths and cycleways are substandard. The upgrading of the existing infrastructure has not been secured and therefore the proposed development would remain inaccessible for future residents. The location of the proposed development would go against the aims of paragraph 110 of the National Planning Policy Framework and emerging policy IF2 of the Borough Local Plan (Main Modifications version) which advises that development should be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

4. The proposed development, by virtue of its in-ward facing layout represents a poorly laid out scheme that would create numerous inactive frontages. Furthermore, the different elements of the development are not laid out in such a way so as they connect well with one another or respect the surrounding pattern of development. In addition the built form includes excessive and unnecessary hard-surfacing, namely the 9m wide circular roadway that would appear highly engineered and dominate the site. The proposal constitutes a poor form of design contrary to the objectives of Policy DG1 of the Local Plan and Policy H10 of the Local Plan, Policies HOU1 and HOU2 of the Neighbourhood Plan, Section 12 of the NPPF, Policy QP3 of the emerging Borough Local Plan (Main modifications Version) and Principle 6.2 of the Borough Wide Design Guide SPD.

5. In the absence of a supporting Arboriculture Report, Tree Constraints Plan and Tree Protection plan it is not possible for the Local planning Authority to fully assess the potential arboriculture related issues arising from the proposal. The scheme is therefore contrary to the aims of Policies DG1 and N6 of the Local Plan, Policy NP/HOU1 of the Neighbourhood Plan, Section 12 of the NPPF, Policies QP3 and NR2 of the emerging Borough Local Plan (Main Modifications Version) and Principle's 5.1 and 6.2 of the Borough Wide Design Guide SPD.

6. Block E, by virtue of its height, orientation and proximity to the shared boundary with No. 21 Old Ferry Drive would be likely to result in a materially harmful loss of privacy to the occupants of No. 21. As such the development proposals are contrary to the objectives of paragraph 130(f) of the NPPF, emerging Policy QP3 of the Borough Local Plan (Main Modifications Version) and Principle 8.1 of the Borough Wide Design Guide SPD.

7. In the absence of a mechanism to secure the proposed 40% Affordable Housing as set out in the submitted Affordable Housing Technical Note, the proposal is contrary to the objectives of Policy H3 of the Local Plan, paragraph 63 of the NPPF (2021), Policy HO3 of the emerging Borough Local Plan (Main Modifications Version) and the Planning Obligations and Development Contributions SPD.
8. In the absence of a Heritage Statement, the LPA are unable to assess the potential impacts on the Listed Building that, as a Grade II* building is of particular importance Owing to the importance of King Johns Hunting Lodge, and without any assessment of the potential impacts on this building the proposal is contrary to policy HE1 of the emerging Borough Local Plan (Main modifications Version), Policy NP/BE2 of the Neighbourhood Plan, paragraph 194 of the NPPF and Policy HE1 of the emerging Borough local Plan (Main Modifications Version).
9. In the absence of sufficient information regarding surface water drainage the proposal fails to secure appropriate flood risk and surface water drainage measures necessary for a development of this scale. As such the scheme is contrary to the objectives of Section 14 of the NPPF and Policy NR1 of the emerging Borough Local Plan (Main Modifications) Version.
10. In the absence of further surveys and clarification with regards to designated sites, habitats, protected species (including badgers, bats, GCN, reptiles) and biodiversity net gain, the Council is unable to appropriately assess the impacts of the development on biodiversity on and in close proximity to the site. This is contrary to paragraph 179 of Section 15 of the NPPF and Paragraphs 98 and 99 of Circular 06/2005.

2. ADDITIONAL INFORMATION

- 2.1 The Panel Update Report has been compiled as a result of additional technical reports submitted by the applicant in an attempt to overcome previous objections from the Environment Agency (EA) and the Lead Local Flood Authority.
- 2.2 The Update also seeks to address the points raised in the letter submitted to the Committee by the applicant on 29th October.

Environment Agency Comments and Flood Risk

- 2.4 The EA's initial objections are set out in the report. The first being that the development amounted to inappropriate development in the Flood Zone in which it is located; and secondly, that the development failed the exception test.
- 2.5 In response to EA Objection 1 (development within the functional floodplain, zone 3b) the applicant refers to the updated FRA (dated September 2021). This has used topographical survey data to revise the extent of flood water level and as a result the applicant states that it can be demonstrated that there is no development to occur within the functional flood plain. The updated FRA has been reviewed and compared with the original FRA. There are no changes with regard to the location of the development within flood zone 3b. The FRA does not include a revised plan with a revised outline of flood zone 3b, nor has the siting of the development changed. On this basis, it has still not been demonstrated that the development lies outside the functional floodplain.
- 2.6 In seeking to address the second EA objection (flood mitigation measures), the revised documentation states that, owing to the outline nature of the application it is not possible to provide definitive flood mitigation measures. The information states that the lower floor level will be raised up 0.3m above the design flood level with the necessary openings being secured by way of an open void with vertical steel bars. Whilst the application is in outline form the use of voids throughout the entire development would not be appropriate in design terms and therefore alternative flood compensation measures would need to be designed into the scheme at the outline stage. This objection therefore remains.

- 2.7 An updated Borough Wide sequential test has also been provided. The updated sequential test is still inadequate with regard to the reasons for dismissing some of the sites. Furthermore, in addition to a review of Borough Wide sites within the Council's HEELA, land and development agents searches are also required. As such the proposal still fails the sequential test.

Lead Local Flood Authority (LLFA) Comments

- 2.8 The LLFA initially responded on 10th August and had a total of 9 comments and areas of concern that related to, inter alia, the extent of flooding, flood mitigation measures, calculation of infiltration rates, groundwater levels, exceedance flow routes, permeable paving, clarification on who would be responsible for flood mitigation measure management and Basic Index Calculations.
- 2.9 The applicant provided additional information on 10th October in seeking to address these concerns. The LLFA subsequently provided additional comment on 25th October. The revised response had a total of nine points of clarification and concern.
- 2.10 Such issues include the extent of the EA's remit, which units would be raised to the minimum level for flood mitigation, the results of the in-situ infiltration testing, the design of the permeable paving and how this will work, agreement regarding exceedance flow routes, maintenance schedules and water quality treatment.
- 2.11 Based on the information submitted at the time of determining the application – the proposal is unacceptable on the grounds of flood risk from surface water.

Applicant's Letter to Committee

- 2.12 Members will note that the applicant wrote to each of you on 29th October with a letter seeking to counter the concerns raised by Officers in their report. The letter addresses the following matters:
- Green Belt;
 - Flood Risk;
 - Sustainability;
 - Layout;
 - Trees, Landscape & Ecology;
 - Impact on No. 21;
 - Affordable Housing;
 - Heritage; and
 - Planning Balance.

Green Belt

- 2.13 Regarding Green Belt, the applicant claims the scheme is acceptable in the Green Belt as the site is unique in that it is in part previously developed land, the scheme will deliver a proportion of affordable housing, represents limited infilling in a village and the LVIA demonstrates that the impact on openness is acceptable.
- 2.14 For the reasons set out in the Committee Report Officers do not agree with such conclusions. In further support of the scheme the applicant refers to a recent appeal in North Hertfordshire. In this case the site was an allocation in a draft Local Plan, the district could demonstrate a housing land supply of less than 2 years and there was a critical need for education places. None of which are relevant to this scheme.

Flood Risk

- 2.15 As outlined above the applicant has sought to address the objection from the EA. The applicant contends that the information submitted will address the response from the EA such that an objection on flood risk grounds is sustainable. As stated above the updated FRA has not changed sufficiently with regard to the development being within the functional floodplain. Furthermore, the Planning Panel Windsor Area

proposal fails the sequential test and applicant has still failed to demonstrate, at least, a 'very low hazard' means of safe escape and as such the scheme would still be unacceptable in flood risk terms.

Sustainability

- 2.16 The third reason for refusal refers to the rural location and that the current site's location together with the lack of streetlights and footpaths would be unlikely to encourage sustainable modes of transport. Officers acknowledge that the local services and facilities are within the higher thresholds recommended by the Manual for Streets. However, without any means to secure the necessary upgrades to the local infrastructure the scheme does not encourage sustainable modes of transport. In this regard the scheme is still unacceptable.

Layout

- 2.17 The applicant contends that the detached houses, that while being accessed via the rear they will address Old Ferry Lane. Officers still have concern regarding the inward facing layout. The combination of the rear access and boundary treatments would still result in an incongruous and inward facing layout when considered against the other properties to the east on Old Ferry Drive.
- 2.18 Moreover, the remainder of the layout fails to provide a perimeter block formation with natural surveillance throughout the remainder of the development thereby amounting to a poorly design layout.

Trees, Landscaping & Ecology

- 2.19 The applicant contends that the built form associated with the development is a sufficient distance from the trees such that there would be no impact on them. The applicant is not a qualified Arboricultural Consultant and without any definitive information regarding the root protection areas, the trees that would be need to be lost to provide for a relocated access would require arboricultural information to be submitted prior to the determination of the application.
- 2.20 Regarding ecology, further comments have now been received from the Council's Ecologist which confirm the proposal is still lacking with regard to survey work and further clarification with regard to impact on protected species, habitats, designated sites and biodiversity net gain.

Impact on No. 21

- 2.21 The applicant states that as the scheme is submitted in outline form such a detailed assessment would fall to be considered at the detailed Reserved Matters stage. Whilst submitted in outline the applicant has applied for Layout to be considered thereby allowing an assessment of the relationship with surrounding properties. This reason for refusal still stands.

Affordable Housing

- 2.22 While a Section 106 Legal Agreement would be used to secure the provision of affordable housing no agreement securing this is in place at the time of decision. If the scheme was acceptable in all other aspects the affordable housing would be secured through a S.106.

Heritage

- 2.23 The applicant claims that the commentary regarding the potential impacts on the Grade II* Listed King Johns Hunting Lodge in their Planning Statement that there is no need for a detailed heritage assessment. Officers acknowledge that there is a degree of space and trees between the site and the Listed Building. However, due to the significance of the building as a Grade II* Officer's would require an initial assessment by a qualified Heritage Consultant to demonstrate that such space is sufficient to ensure there are no material impact on the significance of the building or its setting. This reason for refusal still stands.

Planning Balance

- 2.24 The applicant concludes with their own revised Planning balance such that they contend the benefits clearly outweigh the harms identified. Officers acknowledge that there are benefits associated with the scheme, in particular the provision of market and affordable housing and, to a lesser extent, the business and community hub. However these do not outweigh the harms identified in the report before members this evening.

3. Conclusions and Reasons for Refusal

- 3.1 For the reasons set out in the report, and as set out above Officers still raise significant concerns with the scheme such that permission should be refused for the reasons set out above.
- 3.2 Two additional reasons regarding the LLFA concerns and the ecological objection are also set out in Reasons for Refusal no's 9 and 10 and as repeated below:

1. The application site does not fall within the recognised Green Belt settlement of Wraysbury or within the wider understanding of what comprises the village. Furthermore, the proposed development would not constitute limited infilling within a built up frontage. Therefore, the proposal represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. Furthermore, the proposal would result in harm to the openness of the Green Belt and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly overcome the harm to the Green Belt and any other harm. The proposal is therefore contrary to paragraphs 147, 148 and 149 of the National Planning Policy Framework (2021) and saved policies GB1, GB2(a) and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).

2. The application site falls within Environment Agency flood zones, 2, 3a and 3b. It has not been demonstrated that the proposed development lies outside the functional floodplain (3b) wherein residential development is unacceptable in principle.

Furthermore, the proposal, by reason of its siting in an area where there is a high probability of flooding, fails to demonstrate that there are no other reasonably available sites appropriate for the proposed development with a lower risk of flooding than the application site. The application therefore fails the sequential test.

In addition, the submitted flood risk assessment fails to adequately assess the flood risk posed by the development. Accordingly, the application has not demonstrated that the proposed development would be safe for its lifetime without increasing flood risk elsewhere.

For these reasons, the proposal is contrary to Policy F1 of the adopted Royal Borough of Windsor and Maidenhead Local Plan 1999 (including adopted alterations 2003), Policy NR1 of the emerging Borough Local Plan (Main Modifications 2021) and paragraphs 163 - 173 of the National Planning Policy Framework 2021.

3. The proposal comprises residential intensification and community facilities within a rural countryside location which suffers from poor accessibility and reliance on the private motor car. The road network serving the site is poorly lit and the footpaths and

<p>cycleways are substandard. The upgrading of the existing infrastructure has not been secured and therefore the proposed development would remain inaccessible for future residents. The location of the proposed development would go against the aims of paragraph 110 of the National Planning Policy Framework and emerging policy IF2 of the Borough Local Plan (Main Modifications version) which advises that development should be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.</p>
<p>4. The proposed development, by virtue of its in-ward facing layout represents a poorly laid out scheme that would create numerous inactive frontages. Furthermore, the different elements of the development are not laid out in such a way so as they connect well with one another or respect the surrounding pattern of development. In addition the built form includes excessive and unnecessary hard-surfacing, namely the 9m wide circular roadway that would appear highly engineered and dominate the site. The proposal constitutes a poor form of design contrary to the objectives of Policy DG1 of the Local Plan and Policy H10 of the Local Plan, Policies HOU1 and HOU2 of the Neighbourhood Plan, Section 12 of the NPPF, Policy QP3 of the emerging Borough Local Plan (Main modifications Version) and Principle 6.2 of the Borough Wide Design Guide SPD.</p>
<p>5. In the absence of a supporting Arboriculture Report, Tree Constraints Plan and Tree Protection plan it is not possible for the Local planning Authority to fully assess the potential arboriculture related issues arising from the proposal. The scheme is therefore contrary to the aims of Policies DG1 and N6 of the Local Plan, Policy NP/HOU1 of the Neighbourhood Plan, Section 12 of the NPPF, Policies QP3 and NR2 of the emerging Borough Local Plan (Main Modifications Version) and Principle's 5.1 and 6.2 of the Borough Wide Design Guide SPD.</p>
<p>6. Block E, by virtue of its height, orientation and proximity to the shared boundary with No. 21 Old Ferry Drive would be likely to result in a materially harmful loss of privacy to the occupants of No. 21. As such the development proposals are contrary to the objectives of paragraph 130(f) of the NPPF, emerging Policy QP3 of the Borough Local Plan (Main Modifications Version) and Principle 8.1 of the Borough Wide Design Guide SPD.</p>
<p>7. In the absence of a mechanism to secure the proposed 40% Affordable Housing as set out in the submitted Affordable Housing Technical Note, the proposal is contrary to the objectives of Policy H3 of the Local Plan, paragraph 63 of the NPPF (2021), Policy HO3 of the emerging Borough Local Plan (Main Modifications Version) and the Planning Obligations and Development Contributions SPD.</p>
<p>8. In the absence of a Heritage Statement, the LPA are unable to assess the potential impacts on the Listed Building that, as a Grade II* building is of particular importance Owing to the importance of King Johns Hunting Lodge, and without any assessment of the potential impacts on this building the proposal is contrary to policy HE1 of the emerging Borough Local Plan (Main modifications Version), Policy NP/BE2 of the Neighbourhood Plan, paragraph 194 of the NPPF and Policy HE1 of the emerging Borough local Plan (Main Modifications Version).</p>
<p>9. In the absence of sufficient information regarding surface water drainage the proposal fails to secure appropriate flood risk and surface water drainage measures necessary for a development of this scale. As such the scheme is contrary to the objectives of Section 14 of the NPPF and Policy NR1 of the emerging Borough Local Plan (Main Modifications) Version.</p>
<p>10. In the absence of further surveys and clarification with regards to designated sites, habitats, protected species (including badgers, bats, GCN, reptiles) and biodiversity net gain, the Council is unable to appropriately assess the impacts of the development on biodiversity on and in close proximity to the site. This is contrary to paragraph 179 of Section 15 of the NPPF and Paragraphs 98 and 99 of Circular 06/2005.</p>

