

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

MAIDENHEAD DEVELOPMENT CONTROL PANEL

16 March 2016

Item: 1

Application No.:	15/02081/FULL
Location:	Land Adjacent To Weir Sound Lock Avenue Maidenhead
Proposal:	Construction of detached dwelling
Applicant:	
Agent:	Mr Daniel Morris - JSA Planning
Parish/Ward:	Maidenhead Riverside Ward
If you have a question about this report, please contact: Antonia Liu on 01628 796697 or at antonia.liu@rbwm.gov.uk	

1. SUMMARY

- 1.1 The proposal is for a new house on garden land to the east of the house known as 'Weir Sound', following the subdivision of the plot.
- 1.2 The site lies in a high risk flood area as a result of the River Thames. The proposal fails the Sequential Test as it has not demonstrated to the satisfaction of the Local Planning Authority that the development could not be located in areas with a lower probability of flooding. The proposal also fails the Exception Test as it would not provide wider sustainability benefits to the community that outweigh flood risk and does not demonstrate safe access and egress from the site, resulting in an unacceptable risk to the health and safety of the occupants during a flood event, and an increased burden on the emergency services and during a time of flood.
- 1.3 Due to the narrowness of the plot and scale of the proposed house, the development would result in an incongruous pattern of development that would also be a cramped form of development, representing poor design to the detriment of the streetscene and wider character of Lock Avenue. The limited opportunity for planting, particularly on the boundaries which is an important feature in the area, and harm to the existing hedgerow to the front of the site would be detrimental to the streetscene and wider character of the locality.
- 1.4 The siting of the new house and its height would result in an unacceptable level of overlooking to the nearby property of 'Taumead' as there would not be an adequate separation distance and the existing boundary landscaping cannot be relied upon to mitigate the impact.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):	
1.	The site lies within a high risk flood area. The proposal fails to comply with the Sequential Test, the Exceptions Test and that it would occupiers of the house would not be safe for the lifetime of the development taking into account the vulnerability of the users.
2.	Unacceptable level of overlooking to the detriment of the living conditions of the occupiers of 'Taumead'.
3.	Cramped form of development with limited opportunities for planting and the creation of an opening in a mature hedge. For these reasons, the proposal would not assimilate well with the existing character and appearance of the area.

2. REASON FOR PANEL DETERMINATION

- The Borough Planning Manager and the Lead Member of Planning consider that it would not be appropriate to use delegated powers in this instance.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site comprises of garden land to the east of 'Weir Sound', a two storey dwelling on Lock Avenue. Lock Avenue is characterised by detached residential dwellings set in large plots, and the houses feature a mix of architectural design but predominately traditional in style. Many of the houses on Lock Avenue have tall hedgerows along their front boundaries with a grass verge to the front. The overall character is spacious and verdant. The River Thames lies approximately 95m to the east, and the site lies in Flood Zone 3.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/02991/PDXL	Single storey rear extension no greater than 8.00 m depth, 3.8m high and an eaves height of 3.6m	Prior Approval Required - 05.11.2014
14/03015/CPD	Certificate of lawfulness to determine whether a proposed two storey rear and single storey side extension on both sides of dwelling is lawful	Approved - 03.10.2014
14/02237/CPD	Certificate of lawfulness to determine whether a proposed outbuilding is lawful	Approved - 25.07.2014
14/00190/CPD	Certificate of lawfulness to determine whether a proposed single storey outbuilding is lawful	Approved - 03.02.2014
96/29852/FULL	Single storey front extension and garage extension	Approved - 06.03.1996

- 4.1 The proposal is for a new, two-storey, detached dwelling to be sited to the east of the existing house at Weir Sound, together with associated landscaping. The proposed plot would measure approximately 9m in width and 32m in depth, and the house would be sited approximately 7m back from Lock Avenue. The proposed house would feature a crown roof and measure approximately 9m in height, 13-16m in depth, and 12.5m in width. To the front, a drive is proposed with an area of hardstanding for 2 on-site car parking spaces.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework, Section 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design) and 10 (Meeting the challenge of climate change, flooding and coastal change).

Royal Borough Local Plan

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

	Within settlement area	High risk of flooding	Highways/Parking issues
Local Plan	DG1, H10, H11	F1	T5, T7, P4

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

- Interpretation of Policy F1 – Area Liable to Flood
- Sustainable Design and Construction
- Planning for an Ageing Population

More information on these documents can be found at:
http://www.rbwm.gov.uk/web/pp_supplementary_planning.htm

Other Local Strategies or Publications

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

- RBWM Parking Strategy - view at:
http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm

- RBWM Strategic Flood Risk Assessment - view at:
http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Flood Risk
- ii Character of the Area
- iii Impact on Neighbouring Amenity
- iv Impact on Highway Safety and Parking Provision
- v Other Material Considerations

Flood Risk

Sequential Assessment

6.2 The site wholly within the 1% Annual Exceedance Probability (AEP) (1 in 100 year) plus 20% allowance for climate change flood extent. This is classified by the National Planning Policy Framework (NPPF) and the associated National Planning Policy Guidance (NPPG) as flood zone 3 and as having a 'high probability' of flooding from rivers. In accordance with paragraphs 101 to 102 of the NPPF the proposed residential development must successfully pass a flood risk sequential test in order to direct development to the lowest risk areas of flooding first, before land in the medium (FZ2) and high (FZ3) probability of flooding classifications. The applicant has undertaken a sequential assessment of alternative sites uses the most recent version of the Council's SHLAA (January 2014) to identifying potential housing sites but only within the settlement boundary of Maidenhead and neighbouring settlements such as Cookham. While the 2014 SHLAA is the most up-to-date source of data with the limited study area it has not been demonstrated that there are no alternative preferable sites in respect of flooding available within the whole of the Borough. The proposal therefore fails the Sequential Test.

Flood Risk

- 6.3 Given that the proposal has failed the Sequential Test it is not necessary to consider the proposal further in respect of flooding. However, for completeness, the requirements of the Exception Test have been assessed. To pass the Exception Test it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a SFRA; and a site-specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.
- 6.4 In this respect it is considered that the submitted Flood Risk Assessment (FRA) fails to clearly demonstrate that the development can provide appropriate safe access and egress with a 'very low' hazard rating. Consequently there would be an unacceptable risk to the health and safety of the occupants during a flood event, contrary to paragraph 103 of the NPPF. Furthermore, the additional new house would place additional people at risk during a flood event, contrary to policy F1 which states that in an area liable to flood a proposal should not increase the number of people or properties at risk from flooding. It is also noted that NPPG states that the emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe. This position is supported by a recent appeal decision at 'Four Gables', 62 Lower Cookham Road, dated 3 February 2016, which is attached at Appendix E.
- 6.5 The FRA states that a 'safe refuge' for all occupants within the new dwelling, supplemented by a 'Flood Risk Management Plan' will be provided. However, it is considered unlikely that occupiers would be able to stay for a prolonged period due to lack of supplies (i.e. fresh drinking water and food) and the Environment Agency advises that generally in flood events some foul sewage networks may not function correctly due to capacity issues and/or their outlets/pumping stations

being offline. Consequently emergency services would be called up to move occupiers, especially those less able. Furthermore, a Flood Risk Management Plan would not guarantee that people would / could heed warnings to vacate or be aware of the time duration of flooding at the time of any warning and possibly decide to 'stay put' given that the scheme has been designed to be a dry and safe haven. Therefore, it is essential that a safe route of access and egress can be provided and maintained during flood events up to and including the 1% AEP plus 20% allowance for climate change flood event. The Environment Agency has objected on this basis.

- 6.6 In terms of floodplain compensation the new building will take up floodplain storage space. The applicant proposes construction of the new building over floodable voids and provision of level-for-level flood compensation through ground lowering and removal of an elevated pond. As a method of flood compensation use of floodable voids is considered to be unacceptable as there is no guarantee that the voids would remain unblocked during the lifetime of the development to ensure its effectiveness. However, if the building were solid (no voids) then there would still be an overall gain of approximately 17 cubic metres of floodplain storage due to the level-for-level flood compensation. The elevated pond area to be cleared and levelled to 24.03m AOD will provide level-for-level compensation for the upper level bands (24.03m AOD to 24.73m AOD), and lowering of an area on the adjacent land to 23.73m AOD, provides level-for-level compensation for the lower level bands. As such, it has been demonstrated that there would be no loss of floodplain storage up to the 1% AEP plus 20% allowance for climate change floodplain level. The finished floor levels of the proposed development would also be raised 300mm above the 1% AEP plus 20% allowance for climate change flood level, to ensure that the property would remain dry in the event of a flood.
- 6.7 In terms of wider sustainability benefits to the community that outweigh flood risk the FRA states the development would provide new housing within a desirable area, and would bring economic benefit as it will bring a vacant site into use, creating job opportunities for local buildings and trades. However, any economic benefit would be temporary so not a significant sustainability benefit and the need for housing is recognised but could be provided elsewhere in the Borough but notwithstanding this would not outweigh the risk to people due to the lack of a safe escape.
- 6.8 Overall the proposal is considered to fail a Sequential Test, and in respect of the Exception Test would result in an unacceptable risk to the health and safety of the occupants during a flood event, and would not provide wider sustainability benefits that would outweigh flood risk, contrary to the NPPF and Local Plan policy F1.

Surface Water Flood Risk

- 6.9 The submitted Flood Risk Assessment states that the appropriate drainage will be dealt with prior to commencement of any development. Had the application been recommended for approval, the details of any drainage mitigation to help in the event of a heavy period of rainfall would have been dealt with by condition.

Character of the Area

- 6.10 Lock Avenue comprises predominately by large detached houses sited within generous plots with ample spacing to the site boundaries. This contributes to the spacious character of the street, and allows for mature vegetation boarding the plots to flourish. The subdivision of the plot to accommodate the new dwelling would result in a plot that is narrower than the other plots on Lock Avenue, which is contrary to the prevailing pattern of development. The narrowness of the plot and the scale of the house would also result in limited spacing between the house and side boundaries and this is considered to result in a cramped appearance within the site. Furthermore, the lack of space between the house and western boundary in particular would not allow sufficient planting along this flank. It is noted that mature vegetation boarding the plots, including the side boundaries is characteristic of the street, contributing to its verdant character. As such, the proposal is considered unduly incongruous, to the detriment of the streetscene and wider character of Lock Avenue.

- 6.11 There are further concerns over the creation of the new access from Lock Avenue, and the impact that this would have upon the streetscene. The front boundary to the site is fairly well screened by high quality hedgerow, and the creation of the new access and associated hardstanding is likely to result in harm and potential loss of this hedge, which would have a harmful impact on streetscene.
- 6.12 Concerns have been raised by local residents over the siting of the house, which is out of line with Weir Sound to the west and Taumead to the east. However, there is no strong established building line on Lock Avenue, and it not considered that the siting is unduly obtrusive in this respect. However, overall, the proposal is still considered to be contrary to Local Plan policies DG1, H10 and H11 which seek high standards of design which would be compatible with character of the area, and paragraphs 56, 60, 61 and 64 of the National Planning Policy Framework.

Neighbouring Amenity

- 6.13 The proposed house would be sited further rearwards than Weir Sound and would extend approximately 10m further rearwards than the rear elevation of Weir Sound at a two storey height of approximately 9m at the ridge. However, the corner of the proposed house would just clip an approximate 45 degree line taken from the mid-point of the nearest ground floor rear window serving an orangery at 'Weir Sound' at a distance of approximately 15m. It is therefore not considered to result in an undue loss of light to or appear visually intrusive from this room within 'Weir Sound'. There is a flank first floor window on the east elevation at 'Weir Sound', serving a bedroom, which the proposed house partly extends across. However, the proposed house would not extend across the mid-point of this window and the bedroom is also served by a window on the rear elevation. It is therefore not the sole source of natural light, ventilation or outlook. As such, the amenity of this room is not considered to be unduly harmed. In relation the garden area, the proposal would introduce mass and bulk, resulting in a visual presence, but given the width and size of plot of Weir Sound the proposed house is not considered to appear visually overbearing when viewed from their rear garden to the detriment of its usability.
- 6.14 Taumead is sited approximately 17m further rearwards than the proposed house. This separation distance and oblique relationship is considered sufficient to mitigate any unreasonable loss of light to or visual intrusion when viewed from habitable rooms as a result of the proposal. In relation to amenity space, as with Weir Sound, the proposed house would introduce a visual presence when seen from the main garden area but given the width and size of plot at Taumead the proposed house is not considered to appear visually overbearing when viewed from their garden to the detriment of its usability.
- 6.15 Flank windows have been proposed at first floor level, but as these serve non-habitable rooms (a stairway and bathrooms) it is considered that direct views into neighbouring sites would be limited. If recommended for approval, this could have been secured by condition. Views from proposed ground floor rear windows would also be limited due to their height. However, the proposed first floor windows on the rear elevation, which would serve habitable rooms, are considered to introduce a level of overlooking into the main garden area of Taumead that would unduly erode their privacy. The existing garden at Taumead while to the front of the main house has a reasonable level of privacy as existing views towards Taumead and the main garden area from the existing house at Weir Sound is currently limited due to distances and angles. There is landscaping on the boundary but as the length of time planting would survive is unknown, it cannot be relied on to mitigate overlooking. As such, the proposal is considered contrary to Core Principle 4 of the NPPF which seeks to ensure a good standard of amenity for all.

Highway Safety and Parking Provision

- 6.16 Lock Avenue is a residential cul-de-sac, subject to a 30mph speed restriction, which connects surrounding highway network via a T-junction to the A4094 Ray Mead Road. The existing property, Weir Sound, would retain its two existing access points, while the new access point to the proposed house would be unrestricted, which is considered acceptable.

- 6.17 In relation to parking, the proposed layout shows 2 on-site parking spaces but there would be ample space within the site to provide the additional car parking space required to comply with the Council's parking standards. The submission and approval of a revised parking layout can be secured by condition if minded to approve.
- 6.18 A dwelling of this size and in this location could generate between 8 to 12 additional movements per day which is not considered to have a material impact on local roads.

Other Material Considerations

Sustainable design and construction

- 6.19 The Council has an adopted Supplementary Planning Document (SPD) setting out 12 criteria for developments to achieve in order to improve the sustainability performance. The SPD advises that over its lifetime, a sustainable building will cost less to build, heat and light than a conventional building thereby resulting in economic and environmental gains which will have direct impacts on the sense of well-being of the occupiers and society as a whole. Given that this is a minor development and that the measures would be unlikely to affect the appearance of the building, it is considered that such details could be secured by condition.

7. ASSOCIATED INFRASTRUCTURE IMPROVEMENTS

- 7.1 The Community Infrastructure Levy Regulations 2010 (CIL Regulations) which came in force on the 6 April 2015, allows the Council to raise funds from developers undertaking new building projects in the borough to support and fund new **infrastructure that the Council and local communities may require**. Planning obligations may still be sought to mitigate local impact if they are still necessary to make the development acceptable in planning terms if directly related to the development and if fairly related to the scale and kind of the development. Where a development places additional pressure on local services and infrastructure, Policy IMP1 of the Local Plan requires such impacts to be mitigated. In this case due to the scale of development no planning obligations are sought in associated with this development.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

5 occupiers were notified directly of the application and the planning officer posted a statutory notice advertising the application at the site on 17 July 2015.

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

Comment	Where in the report this is considered
1. Harm to neighbouring amenity including loss of light and privacy, and visually overbearing to neighbouring residents	Para. 6.13 – 6.15
2. Incongruous to character of the street and visually prominent within the street scene due to its siting	Para. 6.10 – 6.12
3. Loss of existing front boundary hedge	Para. 6.11
4. Inadequate on-site parking, increasing pressure on on-street parking	Para. 6.17

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Environment Agency	Objects to the proposal due to the failure to demonstrate safe access and escape routes. Consequently there	Para. 6.3 – 6.8

	would be an unacceptable risk to the health and safety of the occupants during a flood event, contrary to saved policy F1 of the Royal Borough of Windsor and Maidenhead (RBWM) local plan (adopted 2003) and paragraph 103 of the National Planning Policy Framework (NPPF). No concerns raised were in relation to the finished floor levels and flood compensation scheme.	
Local Highway Authority	<p>No objections subject to conditions relating to:</p> <ul style="list-style-type: none"> - New access to be constructed before occupation - Parking spaces to be provided in accordance with approved plan <p>Informatives:</p> <ul style="list-style-type: none"> - HI04 (Highway Licence for new access) - HI06 (No damage to be caused to footways/verges) - HI07 (No damage to be caused to the highway) - HI029 (No building materials, plant, vehicles or equipment to be parked/stored on the public highway). 	Para. 6.16 – 6.18

9. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan
- Appendix B – Proposed Site Layout
- Appendix C – Proposed Elevations
- Appendix D – Proposed Floor Plans
- Appendix E – Appeal Decision at 'Four Gables', 62 Lower Cookham Road

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have not been successfully resolved.

10. RECOMMENDED REASONS FOR REFUSAL

- 1 The application site lies within an area at high risk from flooding and the proposal fails the Sequential Test as it has not demonstrated to the satisfaction of the Local Planning Authority that the development could not be located in areas with a lower probability of flooding. The proposal also fails the Exception Test as it would not provide wider sustainability benefits to the community that outweigh flood risk and would not be safe for its lifetime taking account of the vulnerability of its users. The proposal is therefore contrary to saved Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003) and paragraph 103 of the NPPF.
- 2 Due to its siting, height and proximity to the shared boundary with 'Taumead' the new dwelling would represent an unneighbourly form of development that would cause an unacceptable level of overlooking and loss of privacy to the garden of this neighbouring property, to the detriment of neighbouring amenity. The proposal is therefore contrary to Core Principle 4 of the National Planning Policy Framework, and saved Policy H11 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003)
- 3 Due to the narrowness of the plot and scale of the proposed house, the development would result in an incongruous pattern of development that would also be a cramped form of development, representing poor design to the detriment of the streetscene and wider character

of Lock Avenue. The limited opportunity for planting, particularly on the boundaries which is an important feature in the area, and harm to the existing hedgerow to the front of the site would be detrimental to the streetscene and wider character of the locality. The proposals are contrary to Policies DG1, H10, H11 of The Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted June 2003) and core planning principle bullet points 4 and 5, and paragraphs 56, 60, 61 and 64 of the National Planning Policy Framework.