

MAIDENHEAD DEVELOPMENT CONTROL PANEL

18 October 2023

Item: 3.

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| Application No.: | 23/00814/FULL |
| Location: | Zaman House And Awan House Church Road Maidenhead |
| Proposal: | Construction of 5no. dwellings with cycle and bin storage and alterations to existing vehicular and pedestrian access following demolition of existing dwellings. |
| Applicant: | Mr Iqbal |
| Agent: | Mr Matt Taylor |
| Parish/Ward: | Bray Parish/Oldfield |
| If you have a question about this report, please contact: Vivienne McDowell on 01628 796578 or at vivienne.mcdowell@rbwm.gov.uk | |

1. SUMMARY

- 1.1 The proposal is for 5 detached houses. The development is considered to be overly dominant and out of character with area, and harmful to the adjacent Conservation Area. The applicant has not submitted a bespoke Arboricultural Survey, and so the impact of the development on protected trees cannot be determined.
- 1.2 The application fails to provide affordable housing, in accordance with the requirements of policy HO3 of the Adopted Local Plan. The scheme also fails to demonstrate it would meet the requirements Policy SP2 of the Adopted Local Plan or the requirements of the Council's Interim Sustainability Statement.

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| It is recommended the Committee refuses planning permission for the following summarised reasons (the full reasons are identified in Section 15 of this report): | |
| 1. | The proposed development is of poor design and would be overly dominant in the street scene and be out of character and detrimental to the character of the area. |
| 2. | The application site is adjacent to the Conservation Area. The proposed development and would result in harm to the setting of the Conservation Area. |
| 3. | The applicant has not submitted a bespoke arboricultural report for this scheme of 5 houses. It is not possible to determine the amount of incursion in the tree root protection area of TPO trees (in particular T3 and T15). |
| 4. | The applicant has not submitted a S106 to secure on-site and/or off-site affordable housing provision. |
| 5. | The applicant has not submitted a S106 to secure Carbon Offset Contributions. |

2. REASON FOR COMMITTEE 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 Committee. This application has been called to panel by Cllr J Hill, if the recommendation is for refusal for the reason that the fall back position for the developer should this application be refused is

potentially more damaging to the Fisheries Estate than the current application. Quality detached houses are in-keeping with the Fisheries Estate.

3. THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located on the north side of Church Road within The Fisheries Estate. It occupies a circa 0.344 hectare corner plot at the west end of Church Road at its junction with Bray Road, and is currently occupied by a two-storey detached house and two large outbuildings along the western boundary. The existing dwellings are positioned behind a mainly solid 2m high wall and gate, with the front of the site predominantly hard-surfaced associated with car parking and the rear is mainly a lawned areas.
- 3.2 The application site is surrounded to the north, east and south by detached, individually designed and predominantly two-storey, dwellings. These properties are set within fairly spacious plots and positioned back from the highway. Church Road itself is akin to a small lane, with no pavements and serving only four properties. The application site is within an established residential area where low-density development, (the density of development for the area is approximately 7 dwellings per hectare), mature vegetation and trees are key features.
- 3.3 The majority of the site is within Flood Zone 3, where there is a high probability of flooding, (with the exception of an area of land within the centre of the plot and a corner of the site that are within Flood Zone 2). The land surrounding the site is all within Flood Zone 3. The whole of the site, (including land associated with Rivermead) is covered by a Tree Preservation Order.
- 3.4 The eastern boundary of the applicant site abuts the edge of the Maidenhead Riverside Conservation Area

4. KEY CONSTRAINTS

- 4.1 The site is within the floodplain (Flood Zone 3) and adjacent to the Conservation Area. The site is also covered by a group Tree Preservation Order.

5. THE PROPOSAL

- 5.1 The proposal is for the construction of 5no. detached dwellings with cycle and bin storage and alterations to existing vehicular and pedestrian access following demolition of existing dwellings.
- 5.2 The applicant has submitted an amended plan to show one centrally positioned access onto Church Road to serve all 5 dwellings.

6. RELEVANT PLANNING HISTORY

- 6.1 Listed below is the planning history for the site.

| Reference | Description | Decision |
|------------------|---|--------------------|
| 21/01270/FULL | Construction of x6 dwellings with cycle and bin storage and alterations to existing vehicular | Approved June 2022 |

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| | and pedestrian access following demolition of existing dwellings. | |
| 20/00313/FULL | Construction of a new building comprising x8 apartments bin and cycle stores, associated landscaping, parking and access, following demolition of the existing dwelling. | Refused 22.10.2020 Appeal withdrawn. |
| 19/00674/FULL | Construction of a new building comprising x8 apartments refuse and cycle stores, associated landscaping, parking and access, following demolition of the existing dwelling. | Refused 17.10.2019 Appeal withdrawn. |
| 18/01785/OUT | Outline application, with access, appearance, layout and scale only to be considered at this stage, (with all other matters reserved), for the erection of eight apartments with access, parking, landscaping and amenity following demolition of existing dwelling. | Withdrawn 15.11.2018 |
| 16/03553/FULL | Construction of 16 x two bed apartments with access, parking, landscaping and amenity spaces following demolition of existing 2 x dwellings. | Withdrawn 07.02.2017 |
| 15/02530/CONDIT | Details required by condition 2 of 15/01887. | Approved – 18.09.2015 |
| 15/01887/FULL | Part two storey, part first floor front extension , and part two storey, part first floor rear extension, with raising of existing roof to facilitate loft conversion with addition of two front dormers. | Approved – 20.07.2015 |
| 14/03355/FULL | Two storey and part first floor front extension, part two storey and part first floor rear extension, loft conversion including raising the height of the main roof with two front dormer windows | Approved - 08.01.2015 |
| 12/00430/FULL | Two storey front extensions, first floor rear extension and replacement higher roof with loft accommodation and two front dormer windows | Approved – 13.04.2012 |
| 10/01336/FULL | Change of use from C3 (residential) to mixed use of C3 and Sui Generis (private hire office) | Refused – 20.09.2010 |
| 10/00709/CLU | Certificate of Lawful Use to establish whether the existing | Refused – 03.06.2010 |

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| | use of part of the garage outbuilding as a taxi base incidental to the primary use of the dwelling and curtilage within Class C3 is lawful | |
| 08/02424/FULL | Erection of replacement boundary wall to Church Road frontage | Approved – 20.11.2008 |
| 03/40209/FULL | New conservatory, breakfast room to rear and two storey extension to side (retrospective) | Approved – 04.03.2004 |
| 03/40033/FULL | Construction of single storey rear and first floor rear extension and front ground floor extension with bay | Approved – 06.05.2003 |
| 02/38988/FULL | Single storey rear and first floor front extension. Conservatory to side and detached double garage | Approved – 22.08.2002 |
| 00/36250/FULL | Demolish existing garage and replace with single storey and two storey side extension, rear dormer window and front boundary wall | Approved – 01.03.2001 |
| 96/30700/FULL | Front entrance porch extension to existing garage and new pitched roof to garage | Approved - 02.04.1997 |

7. DEVELOPMENT PLAN

7.1 The main relevant policies are:

Adopted Borough Local Plan

| Issue | Policy |
|---|--------|
| Spatial Strategy for the Borough | SP1 |
| Climate Change | SP2 |
| Sustainability and Placemaking | QP1 |
| Green and Blue Infrastructure | QP2 |
| Character and Design of New Development | QP3 |
| Housing Mix and Type | HO2 |
| Affordable Housing | HO3 |
| Historic Environment | HE1 |
| Managing Flood Risk and Waterways | NR1 |

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| Nature Conservation and Biodiversity | NR2 |
| Trees, Woodlands and Hedgerows | NR3 |
| Environmental Protection | EP1 |
| Air Pollution | EP2 |
| Artificial Light Pollution | EP3 |
| Noise | EP4 |
| Infrastructure and Developer Contributions | IF1 |
| Sustainable Transport | IF2 |

8. MATERIAL PLANNING CONSIDERATIONS

National Planning Policy Framework Sections (NPPF) (2023)

Section 2 – Achieving sustainable development

Section 4- Decision-making

Section 5 – Delivering a sufficient supply of homes

Section 6 – Building a strong, competitive economy

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 challenge of climate change, flooding and coastal change

Section 15 – Conserving and enhancing the natural environment

Section 16- Conserving and enhancing the historic environment

Supplementary Planning Documents

- Borough Wide Design Guide

Other Local Strategies or Publications

Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Landscape Assessment
- RBWM Parking Strategy
- Affordable Housing Planning Guidance
- Interim Sustainability Position Statement
- Environment and Climate Strategy

9. CONSULTATIONS CARRIED OUT

Comments from interested parties

A total of 43 occupiers were notified directly of the application. A site notice was posted at the site on 24th April 2023.

No letters were received supporting the application.

No letters were received objecting to the application.

Consultees

| Consultee | Comment | Where in the report this is considered |
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| Highways | No objection in principle. Conditions recommended relating to access construction, construction management plan, parking and turning, visibility, cycle parking, garage retention for parking, bin stores, stopping up access, and pedestrian access. | These conditions are like those imposed on 22/01270. Conditions would have been set had the recommendation been for approval. See paragraphs 10.56-10.58 |
| Ecology | No objection – conditions recommended to secure biodiversity net gain(pre-commencement), external lighting scheme, and biodiversity enhancements | Conditions would have been set as recommended had the recommendation been for approval. See paragraphs 10.49 -10.55 |
| Conservation Officer | Objection raised | See paragraphs 10.14-10.18 |
| Environmental protection | No objection – conditions and infromatives suggested regarding construction hours, deliveries during construction, dust control, smoke control and asbestos. | All of these matters are covered by separate Environmental Protection Legislation and therefore could have been dealt with by way of informatives (rather than conditions) had the recommendation been for approval. |
| Environment Agency | Comments awaited. | Comments received by EA prior to the committee will be reported in the committee update report. See paragraphs 10.27-10.42 |

Consultees

| Consultee | Comment | Where in the report this is considered |
|---------------------|---|---|
| Bray Parish Council | Recommended for approval, Cllr Phillips noted that The Fisheries Residents Association are happy in principle with the proposed development | Noted. See main report. Paragraphs 10.1 – 13.2 |

10. EXPLANATION OF RECOMMENDATION

10.1 The key issues for consideration are:

- i Impact on the character of the area and the street scene
- ii Impact on Conservation Area
- iii Residential Amenity Issues
- iv Housing mix

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| v | Flooding issues |
| vi | Trees |
| vii | Ecology |
| viii | Highways & Parking |
| ix | Sustainability Measures |

i Impact on the character of the area and street scene.

- 10.2 Policies QP1 and QP3 of the adopted Borough Local Plan (BLP) adopted 8th Feb 2022, amongst other things require all developments to positively contribute to the places in which they are located and be of high quality design. New development is also expected to be climate change resilient and sustainable in terms of minimising energy demand, water efficiency and waste. Policy QP3 states that development will be expected to contribute towards achieving sustainable high quality design in the Borough, and sets out a list of criteria that new development should meet.
- 10.3 The adopted Borough Wide Design Guide (BWDG), principle 6.5.1 states that all development will be expected to respond to the size, shape and rhythm of surrounding plot layouts. Plot layouts that are out of context with the surrounding character, will be resisted.
- 10.4 Principle 7.1 of the Borough Wide Design Guide (BWDG) states that housing development should be sustainable and seek to make effective use of land without:
- adversely impacting on the amenity of neighbours;
 - creating unsatisfactory living conditions for future occupants of the new development;
 - or
 - compromising local character, the environment (including biodiversity) or the appearance of the area.
- 10.5 Principle 7.6.1 (BWDG) states that new development should reflect and integrate well with the spacing, heights, bulk and massing and building footprints of existing buildings. Principle 7.6.2 states that the Council will resist proposals where the bulk, scale and mass adversely impacts on the street scene, local character and neighbour amenities.
- 10.6 The site and the surrounding area makes up an area known as The Fisheries that comprise large detached dwellings set within spacious plots. Church Road, and The Fisheries is characterised by large detached single-family houses with variation of scale, form and design set in large gardens which results in a spacious, low-density character. The presence of trees and other vegetation also gives the area a verdant appearance, and indeed the area is identified in the RBWM Townscape Assessment as being a 'Leafy Residential Suburb'. The Townscape Assessment is a useful document in assessing the impact of a proposed development on the character of an area in which it is proposed to be located
- 10.7 The Townscape Assessment (TA) provides a broad description of the urban form and character of a built up area. The key characteristics of the 'Leafy Residential Suburbs' as set out in the TA, are:
- Low to medium density residential suburbs with characteristic 'leafy' streets.
 - Urban form is defined by wide streets (curvilinear and straight) with secondary streets culminating in 'dead ends', cul-de-sacs or vegetated 'turning circles'.
 - Built form is defined by suburban style detached two storey houses, on medium to large plots.

- A variety of architectural styles, reflecting a range of periods, includes early 20th century houses (including Victorian, Edwardian and Arts and Crafts style), plus more recent development. The type is defined by a broad consistency of built form, spacing between buildings and lack of on street parking.
- The leafy suburban character is reinforced by well-established private gardens (including mature trees/shrubs), that are often bounded by tall beech and laurel hedges. This provides a strong sense of enclosure and privacy to dwellings.
- Mature oaks and scots pines reflect the underlying geology, while other large scale ornamental trees such as cedar and conifers contribute to the leafy character.
- There is a well-defined interface between public/private realm –marked by tall hedges or fences with entrance gates.
- Views are framed along leafy streets – street tree planting and/or trees and shrubs within front gardens allow only occasional glimpses to dwellings.
- A quiet and peaceful residential suburb.

10.8 The TA identifies that the 'Forces for Change' in Leafy Residential Suburbs comes from development intensification including subdivision of plots and extensions to dwellings or subdivision of properties into flats, and from modern development with open or 'urbanised' frontage such as parapet walls, open garden frontages and extensive hardstanding, which detract from the 'leafy character'. The TA recommends that the following principles are taken into account in the development design process:

- Retain mature trees and woodland belts. The active management of woodlands and other treed areas is encouraged, including planning for future planting.
- Conserve and use trees as part of a leafy streetscape. The design should allow space for planting to mature.
- Use a coordinated approach to new tree planting in terms of species and stature. Consider the planting of larger trees at key visual locations.
- Conserve (and promote the use of) hedging for boundaries, in preference to other boundary treatments such as walls, fences, gates and railings.
- Retain remaining Victorian, Edwardian and Arts and Crafts style buildings. Renovations should be sensitive with particular regard to roof heights, pitches, materials and detailing.
- Sensitive contemporary design responding to its immediate context will be appropriate, where it makes reference to existing building heights.

10.9 The existing houses (Zaman House and Awan House) are very large detached houses, set in very generous plots. They are 2-storey houses measuring 8.6 metres tall and 30 overall width (Zaman House); and 8.8 m tall and 20.6 metres overall width (Awan House). These houses are separated by a gap of 13 metres and there are substantial gaps on either side of each house, in the order of 5 metres and 7 metres to the west and east boundaries respectively. Because of their overall breadth, these houses display a very strong horizontal emphasis.

10.10 There is a general feeling of spaciousness in Church Road, with houses sitting back in their plots and not dominating the street scene. Existing properties in the immediate locality are also generally well spaced and arranged in a rather irregular/organic layout. Houses in the vicinity are also characteristically 2 storey. The houses immediately opposite are Fatimah House which is a two storey house and Arcturus which is a bungalow with a couple of flat roofed dormers on the front elevation.

10.11 The current proposal is for 5 no. detached houses with accommodation arranged over 3 storeys. The houses would each measure approximately 10.1 metre in height and

be approximately 10 metres wide in the case of plots 2,3,4, and 12 metres wide in the case of plots 1 and 5. There would be a gap of merely 3 metres between each on the 5 new houses. The 5 no. houses by reason of their scale and regular layout would appear very urban in form and would introduce a much tighter grain of development in this locality. The proposed houses by reason of their height to width ratio would have a strong vertical emphasis, which is in contrast to the existing houses on the site.

- 10.12 The row of new houses would appear very dominant and out of character with surrounding houses. The design of the houses with their unusual roofs with parapets, prominent front feature gables making the row of buildings appear very dominant and out of keeping in the street scene. It is considered that the currently proposed development would be incongruous with the established character of the area and would not contribute positively to the character and appearance of Church Road and The Fisheries estate.
- 10.13 There is an extant planning permission (reference 21/02170) for 6 dwellings on this site (in the form of semi-detached dwellings), and this consent is a material consideration to the determination of this application. for the approved scheme for 6 dwellings were arranged in 3 pairs of semi-detached buildings. Each dwelling previously approved, were 2.5 storey houses with the second floor being within the roof space, with a ridge height of approximately 9.5m that would include a floodable void under each of the semi-detached pairs. Each pair would be approximately 21m in width. The semi-detached pairs would have a gap of approximately 4 metres between each of the flank elevations. It is considered that the previous scheme giving the outward impression of being 3 no. large houses provided a very strong horizontal emphasis. The larger gaps of 4 metres between the buildings (rather than 3 metres currently proposed), also provided greater visual separation between the buildings. Whilst it is noted the extant permission allows for an additional dwelling compared to the current scheme, the previously approved scheme is considered to be of a significantly better design for the reasons set out above, and also is more fitting with the character of this area compared to this scheme for five dwellings.

ii Impact on the Conservation Area

- 10.14 The eastern boundary of the site abuts the edge of the Maidenhead Riverside Conservation Area that runs roughly parallel with the River Thames around Ray Mill Island in the north, through Boulters Lock and south towards the area around Maidenhead & Bray Cricket Club.
- 10.15 Policy HE1 of the Adopted Local Plan seeks to ensure that heritage assets are conserved and enhanced in a manner appropriate to their significance. The Conservation Area Appraisal states that the areas defining character is low density detached housing and large green open spaces while the Thames dominates the area giving it it's focus. Reference is made to more recent flatted developments which have diluted this character although the older properties are easily identifiable.
- 10.15 The application site while not sited in the Conservation Area is located immediately adjacent to it. The Council's Conservation Officer has commented on the application, raising concerns with regards to this proposal and its potential impact on the setting of the adjacent Maidenhead Riverside Conservation Area.
- 10.16 Church Road is a gateway into the Conservation Area; it has as a distinctive character derived from the large properties set in good sized gardens that line both sides of the road. This pattern reflects the general layout of the buildings within the Fishery area

and also within the Conservation Area. Previous approvals for the redevelopment of this site have been for new development comprising 3 no. larger blocks that reflect the scale and massing of the surrounding properties with a single shared access and frontage area.

- 10.17 Despite the fact that this proposal is for 5 dwellings, one less than previously approved, the tight grain of the layout and degree of subdivision of the site, would make the development appear quite busy and urban compared with the surroundings. As a result, it would appear more conspicuous in the townscape than the previously approved scheme. For these reasons, it is considered that the proposed scheme would have a negative impact on the setting of the nearby Conservation Area, and as such it, would not preserve or enhance the character of the area. The harm caused to the significance of the designated heritage asset would be less than substantial. The NPPF at paragraph 202 sets out that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimal viable use. The public benefits of the scheme are considered in the planning balance.
- 10.18 With regard to the amended plans showing a single access the Conservation Officer has commented the frontage arrangement with the single access point is an improvement (on the originally proposed 5 no. accesses); however, this does not overcome the impact on the street scene of the layout the proposed houses, which would look very busy and urban and hence out of character with the more open appearance of the surrounding townscape. Regard has been had to Section 72 of the Planning (Listed Building and Conservation Area) Act 1990.

iii Residential Amenity Issues

- 10.19 Policy QP3 of the Adopted Local Plan, in addition to seeking high quality sustainable design, ensures new residential development provides for a high quality internal and external environment, that inter alia, does not have an unacceptable impact on the amenities of existing residents.
- 10.20 With regard to existing neighbouring residents, there are residential properties to the south, east and north. The nearest of these to the new dwellings proposed is Fatimah House to the south which would be approximately 32 metres from the south/front elevations of the houses proposed. To the north are two properties that front Glebe Road and are approximately 36m from the rear elevation of the units proposed. To the east is Hampton Lodge approximately 34m from the flank elevation of Plot 5. All of the separation distances to surrounding properties would comply with the separation distances set out in the Borough Wide Design Guide SPD.
- 10.21 Regarding the amenity of future occupants, the internal space of the dwellings proposed would exceed the minimum internal space standards, while the proposed garden areas would provide for sufficiently large private amenity areas.
- 10.22 There would be a degree of overlooking between each of the houses from the first and second floor windows and the first floor terraces proposed. The provision of screens to both sides of the terraces would reduce the potential for overlooking and this could be controlled by condition had the recommendation been for approval. There would, in addition, be a degree of overlooking from the ground floor terrace by virtue of the dwellings being raised up with the floodable voids. Screening to the side of these ground floor terraces would also reduce the potential for overlooking.

iv Housing mix

- 10.23 Policy HO2 of the BLP seeks to ensure that new residential developments provide for a mix of houses that accords with the most up to date information which, at the time of writing, comprises the 2016 Berkshire SHMA that identifies a predominant need, for 1,2, and 3 bedroom dwellings; with 4 plus bedroom properties (as proposed) making up approximately 20% of the total need for housing. The lack of housing mix would weigh against the grant of permission; however, such weight is limited as the size of the dwellings proposed would be commensurate with the size of houses in the surrounding area.
- 10.24 The floorspace to be created by the 5 new houses would exceed 1000 square metres, and as such Policy HO3 (affordable housing) of the Adopted Local Plan is triggered. The policy requirements are summarised below:
1. The Council will require all developments for 10 dwellings gross, or more than 1,000 sq. m of residential floorspace, to provide on-site affordable housing in accordance with the following:
 - a. On greenfield sites providing up to 500 dwellings gross - 40% of the total number of units proposed on the site;
 - b. On all other sites, (including those over 500 dwellings) – 30% of the total number of units
- 10.25 The on-site affordable housing requirement would amount to 1.5 units. If provision for affordable housing cannot be met on site there would be a requirement for financial contributions for off-site provision. Both on-site affordable housing and contributions for off-site affordable housing would need to be secured via a S106 legal agreement.
- 10.26 The applicant has not given any indication that any of the houses would be offered as affordable housing, nor indicated whether they are prepared to make financial contributions towards off-site provision. In order to calculate an off-site provision the applicant would need to provide details of the Open Market Value of the Proposal (Gross Development Value [GDV]) and from this the Council can calculate the affordable housing contribution. The LPA would not get the applicant to embark on the process of a S106 agreement unless there is considered to be a reasonable chance being recommended favourably. As there is no agreement from the applicant to provide affordable housing, and there is no S106 legal agreement to secure affordable housing, this is recommended as a reason for refusal.

v Flooding issues

- 10.27 The application site, as defined by the Environmental Agency, falls under Flood Zones 2 (medium risk) and 3, an area recognised as high risk to flooding. The Adopted Borough Local Plan policy NR1 states that all development should not itself, or cumulatively with other development, materially:
- Impede the flow of flood water
 - Reduce the capacity of the floodplain to store water
 - Increase the number of people, property or infrastructure at risk of flooding

- Cause new or exacerbate existing flooding problems, either on the proposal site or elsewhere
 - Reduce the waterways viability as an ecological network or habitat for notable species of flora or fauna.
- 10.28 The majority of the application site and wider surrounding area is in Flood Zone 3, where there is a high risk of flooding. The proposed development (residential) is classified as a 'more vulnerable' land use and is only acceptable in areas at high risk of flooding on passing the flood risk Sequential and Exception Tests.
- 10.29 The applicant has provided an update to the previous Flood Risk Assessment (FRA), which amongst other things compares the non-floodable footprint of the proposed scheme with the approved scheme and existing houses. The FRA identifies that the non-floodable footprint of the current scheme would be 3 sq metres less than the approved scheme; and the non permeable hardstanding in the current scheme would be 11 sq metres than the approved scheme.
- 10.30 The FRA states that the finished floor levels at 23.90 AOD would be set 300mm above the modelled 1 in 100 annual probability plus 35% climate change allowance. It is noted that some underfloor voids are shown on the elevation drawings; however, no voids are shown for the garages. It is important to note that Condition 4 on planning permission 21/01270/FULL required finished floor levels to be set no lower than 24.3 AOD. This would therefore be 0.4 metres higher than stated in the FRA. No detailed plans for the proposed development showing the detailed design and height of the voids and the finished floor level of the dwellings in relation to the predicted flood level (plus climate change allowance) have been provided. It is therefore not known if the proposed finished floor levels would be acceptable without this information. However, if approval was being recommended, this detail could be secured by planning condition.
- 10.31 The Environment Agency has indicated that they wish to comment on the application, however they advised on 29th August 2023 that they aim to provide comments within 8-10 weeks. Any comments received by the EA prior to the committee date will be reported in the committee update report, although it should be noted that if comments from the EA are not received, it is not considered necessary to delay the determination of the application. . The EA would only normally comment on the impact on the flood storage capacity, proposed finished floor levels and void design. The EA would not normally comment on the Sequential Test, as this test is the LPA to assess.

The Sequential Test

- 10.32 Paragraph 161 of the NPPF requires the application of a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change- so as to avoid, where possible, flood risk to people and property. This is achieved by applying a sequential test. Paragraph 162 of the NPPF goes on to state that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 10.33 The applicants have submitted an updated site specific Sequential Test for this current proposal for 5 houses.

- 10.34 For the previous application, a sequential test was undertaken by the applicant looking at similar sized sites to the application site, that are developable or potentially developable and reasonably available within the urban areas of the borough, as identified in the RBWM Housing and Economic Land Availability Assessment (HELAA) 2019. It was considered that the correct data source and methodology for the sequential test had been applied in the case of the previous application. The officer report for the previous application stated that the applicant had demonstrated that, following a borough wide assessment and a reasonable methodology for discounting sites that has included area, ecological constraints, other constraints including Green Belt, there were at the time no “reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding” than the application site, and therefore the sequential test was considered passed for 21/01270.
- 10.35 An updated Sequential Test has been submitted in relation to this current proposed development, this coupled with the extant permission for 6 dwellings which was found to pass the Sequential Test, means that officers are of the view that the flood risk Sequential Test is passed.
- 10.36 Paragraph 163 of the NPPF 2023 states that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainability development objectives), the exception test may need to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3 (of the NPPF). The proposed development is classified as ‘more vulnerable’ and being in Flood Zone 3, it would require the exception test to be passed.

The Exception Test

- 10.37 Paragraphs 164 and 165 of the NPPF state that ‘For the exception test to be passed it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be allocated or permitted.’

- 10.38 Policy NR1 of the BLP seeks, inter alia, to ensure that development does not increase flood risk. Paragraph 167 of the NPPF adds: ‘When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk from flooding where, in light of this assessment (and the sequential and exception tests as applicable) it can be demonstrated that
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient;
 - c) incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan’

10.39 Wider sustainability benefits to the community should be proportionate to the scale of development being proposed. In the case of the previous scheme it is noted that the officer report states:

'the social and economic benefits of the proposal are that it would provide a windfall site that would contribute to the housing supply in the borough and help provide additional family sized dwellings within an area characterised by such housing. Further economic benefits arise from the construction of the development itself, which would help support local trades and services, and from the occupation of the development attracting new residents that will use local shops and facilities further supporting the local economy. In terms of environmental benefits, the scheme would make more efficient use of land within an existing built-up area, helping to relieve pressure to build on greenfield sites. In addition, and in contrast to the existing and extant permission situations, in the event of a flood the proposed development would enable the free flow of flood water, (due to the voids underneath the dwellings), and significantly increase the flood storage capacity of the site, by approximately 41% by reducing the level of built form and the existing impermeable hardsurfacing, with the benefit of reducing flood risk to properties and people in the surrounding area. Relative to the scale of development being proposed, the scheme would provide wider sustainability benefits to the community.'

10.40 With regard to part b) of the Exception Test and having regard to the requirements set out in paragraph 167 of the NPPF, it was acknowledged on the previous application that the finished floor levels would be raised up (300mm) above the 1 in 100 year plus 35% Climate Change allowance, and this together with the floodable voids under the dwellings was considered to afford a degree of flood resilience. The use of soakaways was also accepted as an appropriate and sustainable approach.

10.41 It was concluded on 21/01270 that the flood escape route together with the proposed flood warning condition, the further condition proposed by the Environment Agency, the other associated improvement to the flood plain storage capacity and the infiltration approach for surface water, would ensure the development accords with the objectives of Policy NR1 of the BLP. It is noted that a condition was imposed on 21/01270 requiring the submission and approval a flood warning and evacuation plan (FWEP) for the development shall be submitted to and approved in writing by the local planning authority.

10.42 Based on previous scheme passing the flood risk Exception Test, and on the basis more detailed plans showing the height of the void being at a suitable level above the flood level being provided, it is considered that this scheme passes the Flood Risk Exceptions Test.

vi Trees

10.43 All the trees on site are protected by a Tree Preservation Order (TPO References 691 & 740). Policy NR3 of the adopted Borough Local Plan highlights the importance of retaining and enhancing the tree cover on sites. The trees on site are largely confined to those around the north, east and west boundaries of the site.

10.44 With this current application the applicant has re-submitted the same Arboriculture Report (TH2770B 15th April 2021) that was for submitted for application 21/01270/FULL. This Arboricultural Report identifies a number of trees to be removed; although it is noted that the planning statement submitted with the current application states: *'as with the extant application no trees would need to be removed.'*

- 10.45 It is considered that a revised bespoke arboricultural report should have been submitted with this current application. From the submitted information and comparison of the approved and proposed footprint, indications are that the majority of the trees on the site will be retained and can be afforded appropriate protection during the course of the construction phase of the proposed development. There is a cluster of approximately 8 no. trees around the south-west corner of the site adjacent to the Bray Road/Church Road junction. It was accepted on the previous application that these can be replaced with new planting which was to be secured by way of an appropriate condition.
- 10.46 As before, it appears that there are two other trees along the Church Road frontage shown for removal – these are small unnamed trees. A third, Tree T1 (Cedar) in the south eastern the front corner of the site has previously been consented for removed pursuant to TPO permission 16/02550/TPO.
- 10.47 Regarding the proximity of the proposed dwellings to the trees and the Root Protection Areas; the arboricultural report identifies that the single storey elements of Plots 3, 4 and 6 of the previous scheme would result in incursion into the Root Protection Areas (RPA's) of Trees T3 (Category B2 Sycamore) on side/east boundary, and T15 (Category B2 Tree of Heaven) adjacent to the rear boundary. It is stated in the arboricultural report that the incursion into the RPA's would measure approximately 3.5% for each of these trees. It is noted that the officer report of the previous application stated that such limited incursions would, together with careful construction techniques that can be secured by way of a condition, ensure there is no materially harmful long term impact on the health of the trees.
- 10.48 As there is no updated arboricultural report, the extent of incursions into RPA from the current scheme, have not been quantified. Comparing the footprint of the 2 schemes (on drawing 20-12-604 Rev A) , it appears that there may not be any significant additional incursion into the RPA of T15 (Tree of Heaven) as a result of the current scheme; however the currently proposed detached house (Plot 5) nearest to T3 (Sycamore) would appear to result in greater incursion into the RPA (of T3 Sycamore). Without a revised tree report, it is not possible to conclude that the impact on trees shown to be retained would be acceptable.

vii Ecology

- 10.49 The Council's Ecologist has commented on the application. In terms of ecological considerations this application is very similar to previous approved application 21/01270/FULL, but for five new dwellings instead of the permitted six. As such, Ecology's comments remain similar to the response on the previous application.
- 10.50 The applicant has submitted two bat survey reports, lighting plans, biodiversity enhancement, and landscaping plans with the current application, as previously submitted between applications 21/01270/FULL and 22/03369/CONDIT.
- 10.51 The application site comprises two large, detached houses with associated outbuildings, parking, and landscaping (consisting of amenity grassland, ornamental planting, and boundary trees and hedgerow). It is surrounded by habitat suitable for use by bats and other protected and priority species (fields, hedgerows, and the River Cut are to the west of the site, and large residential gardens with tree lines and the River Thames are to the east). The arboricultural report states that several trees and one outgrown hedgerow would be removed to facilitate the new development

(including a mature TPO Horse Chestnut, the removal of which has already been granted permission by the council).

- 10.52 The bat survey reports for each house (and associated outbuildings) (Dr. Jonty Denton, March 2021) detail the results of a preliminary bat roost assessment of the buildings and conclude that all of the buildings are unlikely to host roosting bats. The applicant has submitted the same arboricultural report as for application 21/01270 and it is therefore understood that no additional trees to those previous proposals would be affected by the current plans. An additional ecology addendum document was submitted with application 21/01270 in which it was confirmed by the applicant's ecologist that the trees to be affected by the proposals had negligible potential to host roosting bats.
- 10.53 The lighting and biodiversity enhancement plans submitted with this application appear to be the penultimate plans submitted with conditions application 22/03369/CONDIT. As such, the ecology comments now remain the same as before, as follows. The applicant has provided a horizontal isolux contour map of the proposed external lighting scheme on the site. Lux levels are still only shown to 2 lux, and not the 1 lux required by the condition wording, and still no vertical lux levels have been provided. However, in the absence of vertical isolux levels, it appears from the updated plans provided that a number of the bat boxes would be too brightly illuminated under the current proposals to be suitable for use by bats. Ideally the boxes would not be illuminated at all, but as a maximum, the boxes should be illuminated no more than 1 lux.
- 10.54 The Council's Ecologist has advised that the submitted plans would therefore not be suitable and it is recommended that, either revised plans are submitted with reduced lux levels illuminating the bat boxes prior to determination of the application, or conditions are set to ensure that the external lighting installed would not adversely affect bats or other wildlife and that biodiversity enhancements are provided as part of the new development (suggested wording has been provided). Hedgehog gaps should also be provided as part of the biodiversity enhancement plans.
- 10.55 Based on the onsite habitat descriptions provided in the bat survey reports, which state that:
'The surrounding grounds do not have any protected habitats. The habitats present are species poor mown lawn, ornamental shrubbery/screening beds with pebble/crushed slate weed suppressing coverings, and hard standing/paved patios and walkways.' It seems likely that the submitted landscaping plans would be sufficient (if implemented effectively) to provide a biodiversity net gain on the site. It is therefore suggested that, it would be sufficient to set a condition to demonstrate that a net gain will be provided and delivered in an effective way in the long term (in accordance with the NPPF and local policy NR2). Had the recommendation been for approval, conditions suggested by the Council's Ecologist would have been included.

viii Highways & Parking

- 10.56 The proposed development would provide for a total of 14 parking spaces set either side of a central singular access off Church Road and each house would have its own (attached) garage.
The amended plan shows a similar central vehicle access arrangement as that on proposed for the previous application 21/01270. The Highway Officer has commented on the original plans which proposed 5 individual access points -raising no objection. The Highway Officer has also commented on the site plan submitted for the Construction Management Plan (CMP) which in principle is considered accepted;

however, a more comprehensive document would be required, had the recommendation been for approval.

Regarding the CMP the Highway Officer has noted:

- The plan mentions Wokingham Road multiple times. This needs amending.
- Delivery times should be between 9:30am to 3pm.
- A swept path analysis drawing would be required to demonstrate that the largest predicted vehicle would be able to safely enter and leave the site onto Church Road in a forward gear.
- Vehicle routing plan and delivery numbers.
- As the road is private the Highway Authority would recommend that the applicant carries out a highway condition survey with the landowner and residents prior to work starting.

10.57 The Highway Authority has suggested conditions to be imposed if the proposal is to be approved. It is noted that the width of the single central vehicular access measures 3.4m when scaling from the amended drawing 20.012.604 Rev A. To the side of this vehicular access is a pedestrian access and gate. To accord with the Council's Highway Design Guide, the minimum width for the vehicular access (serving 5 dwellings) should be 4.8 metres. Had the LPA been recommending approval, amended plans would have been sought to show the vehicular access widened to 4.8 metres.

10.58 Regarding sustainability and for the promotion of non-car based modes of sustainable transport as sought by Policy IF2 it was stated in the report for 21/01270 that the site is located in a residential area between the south of Maidenhead and Bray. Within approximately 1km there are education facilities including a nursery and primary school, leisure facilities including restaurants and open green space and a small range of retail facilities. Further afield at approximately 1.5km is Maidenhead train station and a post office. In addition, there are bus stops that provide fairly frequent services into Maidenhead town centre, approximately 2km.

ix Sustainability Measures

10.59 Policy SP2 (Climate Change) of the Borough Local Plan Policy requires all developments to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. The Council's Interim Sustainability Position Statement gives more details of what is required (including Guidance and Requirements points 1-7). All developments (except householder extensions and non-residential development with a floorspace of below 100 sq m) should be net-zero carbon unless it is demonstrated this would not be feasible. In cases where buildings cannot achieve carbon zero the Council requires Carbon Offset Contributions and these are secured via a Section 106 Legal agreement. Furthermore, even if information has been submitted to demonstrate that the building could be net zero carbon, there would still be a need to enter into a S106 agreement in order for the Council to secure contributions in the event of the as built development falling short of the carbon zero target.

10.60 In order to calculate the Carbon Offset contributions, the applicant would need to submit energy calculations (SAP) to show the carbon emissions quantified in terms of tonnes of CO₂; however, the applicant has not submitted an energy statement. It is

therefore not known if the development would be net zero carbon, or if and how much contributions towards the carbon off-set fund would be required. In addition, securing that the development is net-zero carbon or obtaining contributions towards the Council's carbon off-set fund would need to be secured by legal agreement. In the absence of such, this forms a reason for refusal.

11. COMMUNITY INFRASTRUCTURE LEVY (CIL)

11.1 The development would be liable to pay CIL based on the following:

| | |
|----------------------|---|
| Reason for liability | New residential development, more than 100 sqm of new dev |
| CIL Charging Rate | £240 based on cil charging schedule |
| New floorspace | NB. The applicant has not submitted a completed CIL form to confirm the total floorspace. |

12. PLANNING BALANCE

12.1 As there is considered to be clear reasons to refuse the scheme on harm to designated heritage assets, the tilted balance as set out in the NPPF is not engaged. The proposal is considered to cause less than substantial harm to the setting of the Conservation Area (designated heritage asset). As such the public benefits of the scheme must be weighed against the harm to the heritage asset. In this case, the provision of 5 (3 net additional) dwellings is not considered to provide a significant number of dwellings towards the Council's five housing land supply, which currently stands at 4.83 years. There would be economic benefits from the construction of the dwellings, and from the residents who would occupy them and spend money in the local area, but give that the number of dwellings is 5 (3 net additional), these benefits would be limited. As such there are not considered to be public benefits which outweigh the less than substantial harm caused to the setting of the Conservation Area.

12.2 The scheme is of poor design and would cause harm to a designated heritage asset.. Moreover, without an updated arboricultural report it is not possible to conclude that there would be no adverse impact on TPO trees shown to be retained. The scheme also fails to provide affordable housing and fails to demonstrate that it can achieve carbon-net zero, or if that is not viable make a shortfall contribution to the carbon off-set fund, and therefore fails to meet the requirements of Policy SP2 and the Council's Interim Sustainability Position Statement. The scheme conflicts with the requirements of the NPPF and Adopted Local Plan policy, and there are not considered to be material considerations that mean the development should be approved.

13. CONCLUSION

13.1 The proposal is contrary to adopted Local Plan Policies, the RBWM Borough Wide Design Guide and NPPF 2023.

13.2 The proposal is **RECOMMENDED for REFUSAL**

14. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – plan and elevation drawings

15. REASONS RECOMMENDED FOR REFUSAL

- 1 Given the design, height, urban grain, density, and limited separation between the proposed houses, the row of five new houses would represent an overly dominant and urbanising form of development out of character and detrimental to the spatial qualities of the surrounding properties in this low to medium density neighbourhood which is described in the RBWM Townscape Assessment as 'Leafy Residential Suburb'. The new houses would display a strong vertical emphasis and be arranged in the very regimented layout, which would be incongruous with the looser grain and more spacious layouts of surrounding properties. The proposed development is contrary to adopted Borough Local Plan policies QP1, QP3; adopted Borough Wide Design Guide including principles 6.5.1, 6.8., 7.1, 7.6.1, 7.6.2, 8.2 and National Planning Policy Framework (2023) paragraphs 126 and 130 a) b) f).
- 2 The tight grain of the proposed layout and degree of apparent subdivision of the site, would make the development appear very built up and urban compared with the adjacent Conservation Area. For these reasons, it is considered that the proposed scheme would have a negative impact on the setting of the nearby Conservation area. The proposal is contrary to adopted Borough Local Plan policy HE1, and section 16 of the NPPF.
- 3 The applicant has not submitted a revised/bespoke arboricultural report for this application. There appear to be incursions into tree root protection areas (T3 and T15) which have not been quantified or fully assessed. In the absence of sufficient technical information or mitigation measures regarding tree root protection, the Local Planning Authority cannot accurately assess the potential impact on trees (which are covered by Tree Preservation Order/s). The proposal is contrary to policies NR3, QP3 of the adopted Borough Local Plan.
- 4 The development proposes more than 1,000 sq metres of new residential floor space. The applicant has not submitted a S106 legal agreement to secure on-site and/or off-site affordable housing provision. The proposal is contrary to policy HO3 of the adopted Borough Local Plan.
- 5 Insufficient information has been provided to ensure that the proposed development would minimise potential carbon emissions and furthermore no legal agreement has been provided to secure carbon offset contribution for the scheme to offset the impact of the proposal. In the absence of financial provision towards the Council's Offset Fund, the likely adverse impact of climate change has not been overcome. The application therefore fails to meet the requirements of the Council's Interim Sustainability Position Statement in relation to climate change and is not in accordance with Policy SP2 of the adopted Borough Local Plan (2013-2033).

