

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

MAIDENHEAD DEVELOPMENT CONTROL PANEL

26 October 2016

Item: 4

Application No.:	16/02209/OUT
Location:	Thames Auto Sales Oldfield Road Maidenhead SL6 1TH
Proposal:	Outline application with access and layout considered and other matters reserved (appearance, landscaping and scale) for the erection of 9 flats.
Applicant:	Jonathan Dean Developments Ltd
Agent:	Mr David Howells
Parish/Ward:	/Oldfield Ward
If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk	

1. SUMMARY

- 1.1 The proposed development would contribute to the supply of housing in the Royal Borough, making efficient use of accessible, previously developed land. There are no highway objections to the scheme.
- 1.2 However, the application site is located within an area where there is a high probability of flooding and, in the absence of a safe escape, would increase the number of people at risk. In addition, as the Council could not enforce the maintenance of the proposed voids, the building is likely to increase the risk from flooding elsewhere. Due to the building's close proximity to mature trees outside of the site, the standard of amenity for future occupants would be poor. Furthermore, a raised three-storey building in this location would detract from the character and appearance of the area.
- 1.3 Overall, the proposal would cause significant and demonstrable harm that is not outweighed by its benefits.

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 development fails the Exception Test and would increase the number of people at risk from flooding and increase flood risk elsewhere.
2.	The proposal would result in poor amenity for future occupants of the development.
3.	The proposal would harm the character and appearance of the area.

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor D. Wilson irrespective of recommendation to review the type of development contained in Oldfield Road.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located within the built-up area of Maidenhead, on the east side of Oldfield Road immediately adjacent to a First Great Western railway bridge. The site is approximately 0.13 hectares and is currently occupied by a car sales business, such that most of the land is taken up by parked cars with a small office located in the south-east corner.
- 3.2 The area surrounding the site has a mixed use character and appearance. Immediately to the north is the Amber Centre, a two-storey building with B1(c) light industrial and B8 storage and

distribution use, plus car parking area. The residential area of Oldacres lies to the east of the site, with a heavily treed embankment rising up to the railway tracks to the south and Oldfield Road Industrial Estate on the opposite side of the road to the west.

- 3.3 The whole of the application site is located within Flood Zone 3, where there is a high probability of flooding.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
04/00461/OUT	Erection of a two storey storage and distribution warehouse with ancillary parking (revision to approved 03/40374).	Refused 21.09.04. Allowed on appeal 05.05.05.
04/41736/FULL	Erection of a two storey storage and distribution warehouse.	Approved 27.07.04.
03/40374/FULL	Erection of a two storey storage and distribution warehouse with ancillary parking.	Approved 12.03.04.
02/38601/FULL	Replacement of car sales building and display area with new car showroom, associated parking, display area and landscaping.	Approved 25.10.02.
97/31247/OUT	Two storey day nursery with associated car parking for 20 cars.	Refused 10.11.98.

- 4.1 The application is in outline and seeks planning permission for a block of 9 residential apartments together with approval of the proposed access and layout. The building would be positioned in the southern half of the site with the northern half allocated to parking.
- 4.2 The Design and Access statement advises that the building would be three storeys in height with each apartment having two bedrooms. Two car parking spaces are proposed for each of the apartments, together with a communal garden area.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections 6, 7 and 10.

Royal Borough Local Plan

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

Within settlement area	Highways and Parking	Flooding
DG1, H10, H11	P4, T5	F1

These policies can be found at:

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

Other Local Strategies or Publications

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

- RBWM Parking Strategy

More information on this document can be found at:

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

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i The principle of development and flood risk;
- ii The impact on the living conditions of neighbours and future occupants of the development;
- iii The impact on the character and appearance of the area;
- iv Highway implications and parking provision; and
- v The planning balance.

The principle of development and flood risk

6.2 The application site is located within the built up area of Maidenhead and represents previously developed land, the redevelopment of which is generally supported in planning to help achieve sustainable development. However, the site is also located in Flood Zone 3a, where there is a high probability of flooding and as such, the proposal (being classified as 'more vulnerable') is required to pass the Sequential and Exception Tests.

Sequential Test

6.3 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The NPPF advises that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding and that the Strategic Flood Risk Assessment will provide the basis for applying this test. In this case, RBWM's 'Increased Scope SFRA and Sequential Testing of Sites' (published January 2014), considers there to be no alternative sites in areas of lesser flood risk than the application site, (which forms part of a larger site known as Land at Oldfield Road), and advises that development of the site is considered appropriate dependant on the outcome of the Exception Test.

Exception Test

6.4 For the Exception Test to be passed: 1) it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and 2) a site-specific flood risk assessment 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. Both elements of the test have to be passed for development to be permitted.

6.5 The NPPF states, when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment it can be demonstrated that: 1) 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; and 2) development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

6.6 In response to the first part of the Exception Test, the applicant advises that: 1) the site comprises sustainably located brownfield land within the urban envelope of Maidenhead with good access to sustainable modes of transport; 2) the redevelopment of the site with nine apartments will remove a non-conforming use from the boundaries of the adjacent residential properties and provide commensurate reductions in noise, disturbance and vehicle movements which will improve the living environments of the neighbouring properties accordingly; 3) the

proposals represent the opportunity to make efficient use of the land by replacing the commercial space with a sensitively designed residential scheme which accords with all of the Council's design policies; 4) it is extremely likely that the incoming residents would work in the local area or utilise the existing and forthcoming public transport connections e.g. Crossrail to access the surrounding areas; and 5) the potential occupants of the residential development would utilise the existing local goods and services within Maidenhead thus reinforcing the economic viability and vitality of the area.

- 6.7 The Council's SFRA under section 16.8 The Exception Test and in Table 4, sets out a number of issues specific to 'Employment areas to the east of Oldfield Rd' (which includes the application site), that "can be set against the first part of the Exception Test". These are: brownfield site; opportunity to make better use of the land; central location; housing opportunities for nearby business workers; opportunity for affordable housing/shared ownership; close to leisure and recreation facilities and; accessible by public transport, reducing the need to travel by car. With the exception of affordable housing/shared ownership, the proposal would contribute to all of the issues identified in the SFRA and, as such, passes the first part of the Exception Test.
- 6.8 The average level for the site is 23.55m AOD and the proposal would have a finished floor level of 24.86 AOD (representing a 300mm freeboard above a 1 in 100 plus climate change level of 24.56m). As such, the habitable floor space within the building would be above the flood waters and thus be resilient and resistant for its lifetime. Voids would also be provided under the building. Disposal of surface water from the development could be dealt with by a suitable SUDS scheme and the applicant proposes a site specific Flood Evacuation Plan in lieu of a safe escape.
- 6.9 The applicant's evacuation plan states that its aim is to facilitate and encourage full evacuation of residents in the event of a flood warning being issued. The Environment Agency provides details on the risks of remaining on site when a flood is occurring. At the development site, a flood is likely to be slow in rising but to persist for a number of days. If residents remain on site some of the risks they face are:
- No power or heat;
 - Lack of access to food and fresh water;
 - Lack of medical care;
 - Floating debris;
 - Electrical hazards;
 - Hidden trip and other hazards;
 - Lack of communication; and
 - Contaminated flood water (sewage, etc.).
- 6.10 If residents decide, at a later stage, to evacuate they would be at risk from the potential dangers associated with flood water. Currents can be deceptive and, shallow fast moving water can knock people off their feet. In the event of a flood, residents may not be able to see how deep the water is or other dangers like open manholes or ditches. Attempting to leave the site by car is also strongly advised against and contact with flood water should be avoided as it may be contaminated with sewerage, oil chemicals and other substances. To avoid these risks, the evacuation plan advises that all residents plan for evacuation in the event of flooding and that a management committee, comprising the residents of the site, appoint a representative to coordinate activities on-site during a flood. Section 2.8 of the plan advises that "residents should be aware that once flood waters restrict access to the site, the emergency services may not be able to provide assistance or aid."
- 6.11 National Planning Practice Guidance states "the emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe. Even with defences in place, if the probability of inundation is high, safe access and egress should be maintained for the lifetime of the development". In this case, there is no evidence that the

proposal would not increase the burden on the emergency services in the event of a flood and the lack of safe access and egress is advised against.

- 6.12 The proposal would also increase the footprint of building on the site from 50 m² to 260m², this clearly exceeds the 30m² allowed under Local Plan policy F1. The proposal would involve the use of voids underneath the building however the supporting text to Policy F1 of the Local Plan advises that the use of pier foundations (voids) will not be acceptable as a means of overcoming an objection to a proposal on the grounds of Policy F1. In the past where this form of design solution has been allowed, problems have resulted from the inability of the planning authority to ensure that the voids beneath the building are not obstructed by domestic effects or by flood debris, because when this occurs the flow of flood water is impeded and /or the capacity of the flood plain to store flood water is reduced, leading to an increase in flood risk elsewhere.
- 6.13 Overall, it has not been demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users furthermore the proposal would increase flood risk elsewhere. As such the proposal fails the Exception Test, and accordingly the proposal is contrary to paragraphs 102 and 103 of the NPPF and Policy F1 of the Local Plan.

The impact on the amenities of neighbours and future occupants of the development

- 6.14 The nearest residential property to the proposed building is No.25 Oldacres which lies approximately 23m away to the east. Given this separation distance, and the fact that the rear aspect of this property will remain largely open, it is not considered that the proposal would appear overbearing. In addition, because of the proposed building's position within the site and the separation distance, the development will not cause any loss of daylight to the neighbours. Sunlight is already restricted at the southern part of the neighbour's property due to the high and densely treed railway embankment; it is not considered that the proposal would cause any further loss of sunlight to the neighbours. Any windows proposed at first floor and above on the east side of the building would be assessed at the reserved matters stage to establish if there are any overlooking concerns. In summary, it is not considered that the proposal would harm the living conditions of any neighbours.
- 6.15 The proposal is for 6 two bedroom apartments arranged over three floors. The submitted site plan shows how the roof and general internal layout may work, acknowledging that the application is in outline with scale and design for a reserved matters application. Nonetheless, on the information provided it is considered likely that, due to the building's close proximity to the railway embankment to the south which is aligned with mature trees in excess of 15m high, the west and southern elevation and amenity space will be in permanent shade throughout the day. The proposed tree planting along the western, southern and eastern boundaries of the site will compound the shading issues and their retention beyond a 5 year landscape planting condition is unlikely.
- 6.16 The juxtaposition of the embankment trees and proposed building is unsatisfactory and would not meet the NPPF's core planning principle that development should always seek to secure a good standard of amenity for future occupants of land and buildings.

The impact on the character and appearance of the area

- 6.17 The area surrounding the site has a mixed use character and appearance; however buildings within the vicinity generally have two-storeys. The proposal would have three-storeys and be raised above the ground and is therefore likely to be in the region of 10m high. Although it would sit against the railway bridge to the south, it would be mainly viewed against its surroundings to the north. While scale and appearance are reserved matters, it is considered that a raised three-storey building in close proximity to the highway would appear dominant and incongruous and detract from the street scene. In addition, for the reasons set out in paragraph 6.15, it is unlikely that any meaningful landscaping along a large section of the western boundary adjacent to Oldfield Road is likely to be successful in establishing and softening the appearance of the development
- 6.18 Although the current use of the site is for car sales, the level of development is low. The proposal would involve a large area of car parking and a comparatively large, dominant building on site. It

is not considered that this would improve the character and quality of the area, and as such, would be contrary to paragraph 64 of the NPPF.

Highway implications and parking provision

- 6.19 The proposal utilises the existing access point off Oldfield Road. The Highway Authority has advised that this is acceptable provided visibility splays in both directions remain unobstructed. In addition, the proposed 18 car parking spaces, to serve the 9 two bedroom apartments, comply with the Council's current parking standards.
- 6.20 The Highway Authority has no objections subject to conditions relating to a construction management plan, parking and turning as approved and maintenance of visibility splays.

Other Material Considerations

Housing Land Supply

- 6.21 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that applications for new homes should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.22 It is acknowledged that this scheme would make a contribution to the Borough's housing stock. However, it is the view of the Local Planning Authority that that the socio-economic benefits of the additional dwellings would be significantly and demonstrably outweighed by the adverse impacts arising from the scheme proposed, contrary to adopted local policies, all of which are essentially consistent with the NPPF, and to the development plan as a whole.

Affordable Housing

- 6.23 Affordable housing is not required in this case as the site area is less than 0.5 hectares and the scheme is for less than 15 units.

The planning balance

- 6.24 Weighing in favour of the proposed development is the fact that it would contribute to the supply of housing in the Royal Borough, making efficient use of accessible, previously developed land. Weighing against the proposal is that it would increase the number of people at risk from flooding, increase flood risk elsewhere, is unlikely to provide a good standard of amenity for future occupants and likely to detract from the character and appearance of the area.
- 6.25 Overall, the proposal is likely to cause significant and demonstrable harm that is not outweighed by its benefits.

7. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 7.1 The application proposes a new residential development and therefore would be liable for a Community Infrastructure Levy contribution at the reserved matters stage.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

8 occupiers were notified directly of the application.
The planning officer posted a statutory notice advertising the application at the site on 23rd August 2016.

1 letter has been received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. A three-storey building is not in keeping with the rest of the area and it will be intrusive to neighbours.	6.14, 6.17, 6.18.

Consultees

Consultee	Comment	Where in the report this is considered
Highway Authority	No objections.	6.19, 6.20.
Trees	Adverse impact from trees along railway embankment on the proposed development. Potential adverse impact on trees along railway embankment from close proximity of the development – pressure to fell or prune trees, which make an important contribution to the character and appearance of the area.	6.15, 6.16. Trees are not covered by a TPO but are outside application site.
Environmental Protection	No comments received. Recommended conditions in relation to contaminated land.	Noted.
Environment Agency	Awaiting comments on submitted FRA.	To be reported in Panel Update.

9. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B - Site layout plan

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

This recommendation is made following careful consideration of all the issues raised through the application process. 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 FOR REFUSAL IF PERMISSION IS NOT GRANTED

1. The application site is within Flood Zone 3a, an area at high risk from flooding, and is for a type of development that is classified as being 'more vulnerable'. In the event of a flood, a low hazard access and egress route would not be available to and from the development and it is therefore not safe and would increase the number of people at risk from flooding. In addition, the scheme proposes the use of voids to mitigate the flood risk. However, as the planning authority is unable to ensure that the voids beneath the building would not be obstructed by domestic effects or by flood debris, the flow of flood water is likely to be impeded and /or the capacity of the flood plain to store flood water is likely to be reduced, leading to an increase in flood risk elsewhere. For these reasons the proposal fails the Exception Test and is contrary to paragraphs 102 and 103 of the NPPF and Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).

2. Due to the building's close proximity to the railway embankment to the south which is aligned with mature trees in excess of 15m high, the west and southern elevations and amenity space will be in permanent shade throughout the day. The proposed tree planting along the western, southern and eastern boundaries of the site will compound the shading issues and their retention beyond a 5 year landscape planting condition is unlikely. Accordingly, the proposal is contrary to the NPPF's core planning principle that development should always seek to secure a good standard of amenity for future occupants of land and buildings.
3. The proposal by reason of its height and siting would appear dominant and incongruous in the street scene detrimental to the visual amenities of the area. As it would not improve the character and quality of the area the proposal is contrary to paragraph 64 of the NPPF.