

APPLICATION NO.	P15/S1697/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	28.5.2015
PARISH	HENLEY-ON-THAMES
WARD MEMBERS	Joan Bland, Lorraine Hillier, Stefan Gawrysiak
APPLICANT	Mulberry Estates
SITE	Thames Court, 15 Thameside, Henley-on-Thames
PROPOSAL	Erection of a two-storey two-bedroom dwelling and a two-storey three-bedroom dwelling as a pair of semi-detached houses.
AMENDMENTS	None
OFFICER	Paul Lucas

1.0 INTRODUCTION

1.1 This application is referred to the Planning Committee as a result of a call-in by Councillor Lorraine Hillier.

1.2 The application site is identified at **Appendix 1** and comprises a yard formerly used as a boatyard. It currently consists of a mostly open hardstanding with a couple of single storey buildings, located within Henley Town Centre. There is a narrow gated driveway leading to the yard from Thameside. There is a high brick wall around most of the site boundaries. Gardens belonging to adjoining residential properties lie to the north, east and south of site. There is an office building adjacent to the western site boundary. The site lies within Henley-Main Conservation Area and is adjacent to Grade II listed buildings and within Flood Zones 2 and 3.

2.0 PROPOSAL

2.1 The application seeks full planning permission for the erection of a two-storey two-bedroom dwelling and a two-storey three-bedroom dwelling built as a pair of semis, as detailed on the plans and documents submitted in support of the application.

2.2 A copy of the current plans is attached at **Appendix 2** whilst other documentation associated with the application can be viewed on the Council's website: www.southoxon.gov.uk.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

3.1 **Henley-on-Thames Town Council** – The application should be approved

Environment Agency - No objection to flood resilience measures subject to conditions

County Archaeological Services (SODC) - No objection subject to condition

Conservation Officer (South) - No objection subject to condition

Contaminated Land Officer – Preliminary Contaminated Land Risk Assessment required

Highways Liaison Officer (Oxfordshire County Council) - No objection subject to conditions and informative

Drainage Engineer (South Oxfordshire - MONSON) - No objection subject to condition

Henley Archaeological & Historical Group Vernacular Buildings Research –
Archaeological investigations should be carried out prior to decision

Neighbours – Six representations of objection/concern, summarised as follows:

- Development within Flood Zone 3 and failure to meet the sequential test set out in the NPPF
- Impact on sewage infrastructure – dwellings should be biomass self-sufficient
- Conflict with location of ‘Town Ditch’
- Overdevelopment in terms of scale, height and position on a small awkward plot behind existing buildings and with a narrow access
- detracting from the setting of adjacent Grade II listed buildings and failure to preserve the character of the conservation area.
- nuisance from waste bins close to boundary with No.12
- overlooking of No.12 from first floor balconies
- loss of privacy to rear of properties on Friday Street from rear windows and use of gardens
- overshadowing and loss of outlook to rear gardens of Friday Street dwellings and No’s 10, 11 & 12 Thameside
- Impact of construction phase in terms of vibration, noise and construction traffic
- no agreement with 17A Thameside for flood egress (this has been addressed through removal of referee to an agreement from the design and access statement)

4.0 RELEVANT PLANNING HISTORY

4.1 [P14/S2815/FUL](#) - Refused (20/03/2015) – This decision is now subject to an appeal
Erection of a two-storey two-bedroom dwelling and a two-storey three-bedroom dwelling as a pair of semis. (As amended by plans and additional information received 5th December 2014 to address Environment Agency concerns)

[P13/S0152/CA](#) - Approved (25/03/2013)
Demolition of outbuildings.

[P13/S0117/FUL](#) – Withdrawn following officers objections to siting in Flood Zone 3, out of keeping with the historic environment and neighbour impact (25/03/2013)
Demolition of outbuildings and erection of a two storey building comprising three two-bedroom dwellings.

5.0 POLICY & GUIDANCE

5.1 South Oxfordshire Core Strategy policies
CS1 - Presumption in favour of sustainable development
CSB1 - Conservation and improvement of biodiversity
CSEN1 - Landscape protection
CSEN3 - Historic environment
CSH1 - Amount and distribution of housing
CSM1 - Transport
CSQ2 - Sustainable design and construction
CSQ3 - Design
CSS1 - The Overall Strategy

5.2 South Oxfordshire Local Plan 2011 policies;
CON10 - Protection of burgage plots
CON5 - Setting of listed building
CON7 - Proposals in a conservation area
D1 - Principles of good design

- D2 - Safe and secure parking for vehicles and cycles
- D3 - Outdoor amenity area
- D4 - Reasonable level of privacy for occupiers
- D10 - Waste Management
- E6 - Loss of employment uses
- EP2 – Noise, smells, vibration
- EP8 – Contaminated Land
- G2 - Protect district from adverse development
- H4 - Housing sites in towns and larger villages outside Green Belt
- T1 - Safe, convenient and adequate highway network for all users
- T2 - Unloading, turning and parking for all highway users

South Oxfordshire Design Guide 2008 – Sections 3 & 5

5.3 Henley and Harpsden Joint Neighbourhood Plan

5.4 National Planning Policy Framework

National Planning Policy Framework Planning Practice Guidance

The policies within the SOCS and the SOLP 2011 of relevance to this application are considered to be in general conformity with the provisions of the NPPF and therefore this application can be determined against the relevant policies above.

6.0 **PLANNING CONSIDERATIONS**

6.1 The planning issues that are relevant to the planning application are whether the development would:

- be acceptable in principle;
- be in keeping with the character and appearance of the original dwelling and would preserve or enhance the character and appearance of the Henley-Main Conservation Area, safeguard the setting of nearby listed buildings and maintain the openness of the historic burgage plots in the locality;
- compromise the amenity of neighbouring residential occupiers and provide appropriate living conditions for future occupiers;
- result in an acceptable deficiency of off-street parking spaces for the resultant dwellings; and
- satisfy any other material planning considerations

6.2 Principle

The site lies within the built up confines of Henley, where the principle of residential development is supported by the SOLP 2011 Policy H4. Policy E6 allows the loss of employment sites in Henley, where the floorspace would be less than 500 square metres or the site area less than 0.25 hectares, both of which are the case on the application site. However, the Council seeks to resist development of sites which are located within Flood Zone 3 on grounds of flood prevention. Tables 7.1, 7.2 & 7.3 of the SOCS Policy CSH1 set out the planned housing provision to demonstrate that a 5-year housing land supply can be met in the 'Rest of the District' sub-area. Paragraph 100 of the National Planning Policy Framework (NPPF) makes it clear that the Sequential Test must be applied when assessing proposals for development in the flood plain. The proposed development would fail to be in compliance with the Sequential Test, because there are other reasonably developable sites available throughout Henley and the remainder of the District which lie within Flood Zones 1 and 2. Paragraph 101 of the NPPF states that, "The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding." There are no allowances within the NPPF or Sequential Test for developments with a neutral impact on flooding. It is simply a measure to ensure building on a flood plain is always a last resort.

- 6.3 The Exception Test referred to in Paragraph 102 of the NPPF only applies when it has been established that the only suitable locations for housing are within Flood Zone 3. Consequently, the Council is not in a position where residential development has to be permitted on any sites within Flood Zone 3, because sufficient housing has been allocated in Flood Zone 1 to avoid permitting any Flood Zone 3 development. Whilst a residential use of the site might be more compatible with adjoining land uses than the existing B2 use, advice contained within the NPPF Technical Guidance in relation to flooding is clear that dwellings are categorised as 'more vulnerable' land uses, whereas general industrial uses fall within the 'less vulnerable' category. Also, officers are in a position to be able to give more favourable consideration to other windfall sites that are available in Flood Zone 1.
- 6.4 Although the Environment Agency does not object to development on this site due to the proposed flood resilience measures, these measures would not overcome officer's strategic objection (see the Council's Strategic Flood Risk Assessment on our website: <http://www.southoxon.gov.uk/services-and-advice/planning-and-building/planning-policy/evidence-studies/district-flood-risk>) to the development within Flood Zone 3 in relation to flood prevention. The applicant considers that the proposed residential use would be less vulnerable or 'safer' than the established B2 use due to the fact that flood resilience measures would be incorporated in the development. However, the applicant has confused site specific flood risk assessment with strategic flood risk assessment. Note c of Table 2 of the NPPF Technical Guidance does not state that the vulnerability classification of a particular development is dependent on the flood risk mitigation measures that can be incorporated. Instead, it explains that the level of mitigation required will vary between developments within each class of vulnerability. As such, the proposal would be in conflict with Policy CSH1 and the relevant paragraphs of the NPPF.
- 6.5 Officers are aware that planning permission P15/S0105/FUL was granted in March 2015 for the change of use of 12 Thameside from a shop to a dwelling. However, although adjacent to the application site, that permission is not directly comparable to the current application. This is because Paragraph 104 of the NPPF states that applications for minor development and changes of use should not be subject to the Sequential or Exception Tests. In that instance, officers were mindful of the fact that the first floor could already be used for residential purposes without the need for planning permission from the Council and were satisfied with the flood evacuation details set out in the Flood Risk Assessment submitted with that application.
- 6.6 Historic Environment
The application site comprises a brownfield site to the rear of Thameside and Friday Street. This site is surrounded by the rear of listed buildings and is within the Henley-on-Thames Conservation Area. The proposal for two dwellings has responded to previous officer advice. Officers consider that whether there is potential for development on this brown field site, in conservation terms, depends on if a sympathetic scale and design can be achieved. The one and a half storey building with a flood void would be appropriate given the scale of other domestic buildings within the area. The proposed dwellings would not be subservient to those on Friday Street but officers consider that the overall proposal would not overwhelm the site and other buildings and is thus appropriate to the site. Officers consider that as far as possible the impact of these buildings has been mitigated and the proposal would not harm the character and appearance of the conservation area. There is an impact of providing two dwellings on the site in relation to the conservation area, but officers consider that the design, siting and scale proposed would not be harmful.

6.7 Given the built up nature of the site, there would not be an adverse impact to the setting of nearby listed buildings. The greatest impact would be to No's 11 and 12 Thameside, because they would have a greater visibility of the site. The proposed site layout has retained a gap between the buildings and the boundary to these properties and has therefore addressed this impact. Some informal/intermittent views from the rear of the Friday Street properties may be altered, for example partial views of the Church of St. Mary the Virgin. However, in this built-up environment officers do not consider that this would be adversely harmful to the setting of these buildings nor the character and appearance of the conservation area. Officers agree with the contemporary approach and the design influences of previous uses of this yard. The success of this development will partly depend on the quality of materials used, including the proposed use of brick and clay tiles. On the basis of the above assessment, the proposal would be in accordance with the SOCS Policy CSEN3 and the SOLP 2011 Policies H4(ii)&(iii) CON5, CON7 and CON10.

6.8 Neighbour/Future Occupier Impact

Criterion (iv) of Policy H4 of the SOLP 2011 requires that there are no overriding amenity objections. The proposed dwellings would have an acceptable relationship with the rear of the dwellings on Friday Street. The height of the boundary wall already dominates the outlook of these residential occupiers and the height and position of the dwellings relative to the boundary would not materially impinge on this outlook or result in any significant loss of daylight. The rear-facing windows have been positioned in such a way to avoid overlooking. The balcony on the front elevation would have side screens, which could be obscure glazed to prevent overlooking towards the rear of No's 11 and 12 Thameside. The submitted shadow plots show that there would be some overshadowing of part of the rear garden of No.11 and No.12 at the spring/autumn equinoxes. However, this would be late in the day. In the winter months, there would be no additional shading as the sun would not move round sufficiently before setting and in the summer months, the shading would occur much later into the evening. The separation distance between the eastern side wall of the 3-bedroom dwelling and the rear facing windows and gardens of No's 11 and 12 would be sufficient to enable an acceptable level of daylight for the adjoining occupiers. The dwellings would be sufficient distance from the flat above No.15 and the No.17 to the north to prevent any significant loss of light or outlook. The amount of outdoor amenity space would be about half the minimum amount usually recommended for 2 and 3 bedroom dwellings in Section 3 of the SODG 2008. However, given the site is in a town centre location with good access to public open space, this shortfall is considered to be acceptable in this particular instance. On the basis of the above assessment, the proposal would comply with the above criterion.

6.9 Access and Parking

Criterion (iv) of Policy H4 of the SOLP 2011 also requires that there are no overriding highway objections. The Highway Liaison Officer is satisfied that the proposed access and parking arrangements would be acceptable to serve the proposed dwellings and existing flat. Although it is accepted that the access has substandard visibility, its use would not be intensified compared with the established commercial use. Consequently, severe harm would not be caused to highway safety. The proposed development would therefore satisfy the above criterion.

6.10 Other Material Planning Considerations

The Environment Agency is satisfied that the Flood Risk Assessment and supporting information would comply with technical requirements in relation to flood resilience, subject to planning conditions. Matters relating to drainage and the 'Town Ditch', the implementation of an archaeological watching brief and provision of a contaminated land statement questionnaire could also be dealt with through conditions.

6.11 It is also a material planning consideration that in March 2015 the Council refused planning permission [P14/S2815/FUL](#) on flooding grounds for an identical development on the same site. This decision is now subject to an appeal. It is important that the Council is consistent in its decision-making.

7.0 **CONCLUSION**

7.1 The proposed development would have an acceptable impact on the historic environment, would not compromise the residential amenity of neighbouring and future occupiers of the proposed dwellings, would not be prejudicial to highway safety and would comply with the Environment Agency's technical requirements. However it would fail to comply with the Sequential and Exception Test as set out in government advice contained within the NPPF and NPPF Technical Guidance and would conflict with the Council's strategy to direct new housing away from Flood Zones 2 and 3.

8.0 **RECOMMENDATION**

8.1 **To refuse planning permission due to the following reason:**

The application site is located within Flood Zones 2 and 3 where proposals for new residential development need to comply with the sequential and exception tests as outlined within the NPPF. The proposed development would fail to be in compliance with the sequential test, because there are other reasonably developable sites available throughout Henley and the remainder of the District which lie within Flood Zones 1 and 2. The exception test only applies when it has been established that the only suitable locations for housing are within Flood Zone 3. As such the proposal would be contrary to guidance contained within the NPPF and the NPPF Technical Guidance.

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