

FEEDBACK FROM LICHFIELDS 20.12.2024

BACKGROUND AND OVERVIEW

These representations have been prepared by Lichfields on behalf of our client, Derno Estates Ltd (our client).

Lichfields acts for Derno Estates Ltd in relation to the site known as Sierra House, St Mary's Walk, Maidenhead, which forms part of the site allocation AL3 (St Mary's Walk, Maidenhead) in the adopted Royal Borough of Windsor and Maidenhead (RBWM) Borough Local Plan (Feb 2023).

Sierra House is located within Maidenhead Town Centre and Maidenhead Town Centre Conservation Area. Lichfields submitted a planning application (ref. no. 24/01017/FUL) to RBWM in April 2024 for demolition of the existing Sierra House (the site), a vacant and dilapidated building, and erection of a new, high-quality office building and this application is progressing.

Our client's proposals seek to enhance the site and its surroundings through delivery of a high-quality, new building with significant improvements to the public realm, in addition to delivering a number of other benefits.

These representations are therefore made with reference to the sections of the draft Maidenhead Neighbourhood Plan (draft MNP) which we consider are most pertinent to ensuring that a high-quality development is brought forward at Sierra House and that the Neighbourhood Plan is consistent with the Local Plan aspirations to achieve high-quality, sustainable design across the Borough.

These representations also include specialist input from a heritage consultant (Smith Jenkins) and focus on the review of the following documents:

- 1 Draft Maidenhead Neighbourhood Plan (Part 1) (October 2024)
- 2 Supporting Document: Non-Designated Heritage Assets Listed (November 2024)
- 3 Supporting Document: Maidenhead Design Guidance and Codes (October 2024)

In summary, these representations set out a number of comments on key topics but conclude that the draft MNP requires a number of revisions before it can be accepted to meet the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990, as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004.

The draft MNP lacks clarity and consistency in a number of places and risks appearing to display a bias towards Anti—development's views. This is fundamentally against national planning policy objectives (NPPF 2024) which seek a positive approach to development and encouragement for high-quality sustainable development.

The NPPF, para 30 states, Neighbourhood Planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. **10.1** The tone of the draft MNP should therefore be revised to take the positive nature of Neighbourhood Planning into account, rather than risk appearing to hinder development.

10.2 It is understood that the draft MNP is intended to be a final draft seeking approval through

consultation, however the footer at the bottom states it is a working draft clarity should be provided on the status of the document. The draft MNP should also avoid simply repeating policies of the Local Plan - instead, it should identify key issues relevant to the neighbourhood. The published draft MNP currently does not do this.

We ask that our representations are fully considered and that amendments to the draft MNP and its supporting documents are made accordingly.

DRAFT MAIDENHEAD NEIGHBOURHOOD PLAN DOCUMENT (DRAFT MNP)

Introduction (Section 1)

We note that the draft MNP recognises at page 3 that the plan cannot override the Borough Local Plan (BLP), but that it can add detail and fill policy gaps where these sources are silent. **10.3** It is important to clarify here that the draft MNP should not seek to introduce new policies or themes that have not been tested through the Local Plan Examination process. It should seek only to provide further clarification and guidance on policy areas already identified within the BLP. Such clarification/ guidance should be in line with the overarching objectives of that policy.

The draft MNP, page 7, suggests that it can include policies that influence the type of development on the allocated sites, and policies about redevelopment of existing sites. The sites allocated within the BLP have been considered through a rigorous assessment and adopted following the Local Plan Examination Process. They also contain clear criteria to guide subsequent development proposals.

The NPPF also requires that, Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. Any policies which refer to the allocated sites should therefore not be contrary to the BLP objectives for that allocation. Policies should seek to support and enable development to come forward on the Borough's allocated sites.

Vision and Policy Approach (Section 3)

10.4 We note at page 15 that the draft MNP indicates local residents would prefer to see traditional styles of building rather than more modern approaches in the Neighbourhood Plan area, including natural materials, pitched roofs and historic cues although the source of this assertion is unclear.

In the case of Sierra House, the current Maidenhead Conservation Area Appraisal notes the existing building is considered to impact negatively on the character and appearance of the conservation area through its poor architectural design which conflicts with the surrounding streetscape and is exacerbated by the derelict appearance of the building. St Marys Walk, which runs along the eastern side of the Site, is also noted in the Conservation Area appraisal as a particularly hostile and unattractive environment for pedestrians. It is recommended that the draft MNP recognises that there isn't a one-size fits all and that some sites, depending on their location and surroundings, may benefit from a more contemporary approach.

10.5 The draft MNP also suggests that residents preference for more natural styles of streetscape is linked to the requirement for 10% biodiversity net gain (BNG). The draft MNP does not expand on why this link has been made, and our client has concerns that a more traditionally designed development may restrict the ability of new developments to deliver higher levels of BNG and sustainability measures.

Design (Section 4)

The draft MNP states (page 17) that the objectives of this section are to ensure that new buildings are appropriate to their location in Maidenhead Town Centre.

10.6 Policy DE-1 sets out design principles for new buildings in Maidenhead town centre and specifically provides guidance on where taller buildings are acceptable. In general, this policy is a direct repetition of the recently adopted Building Height and Tall Buildings SPD (2023) and is therefore not relevant as it repeats the same points. The SPD states (para 1.2.1) that it supports Local Plan Policy QP3a yet the draft MNP appears to be attempting to introduce further policy which is not appropriate for the reasons summarised above.

Indeed, not only are such provisions unsuitable our client questions the basis for the approach to the location of tall buildings within the draft MNP which appears to lack any evidence base and in places contradicts both policy QP3a and the SPD.

Additionally, the draft MNP policy goes further stating that, The Neighbourhood Plan policy therefore sets the increased context heights, identified in the SPD for specific town centre areas, as a maximum. It also sets the height of tall buildings on SPD-identified landmark sites as a maximum. This part of the policy conflicts with both the Local Plan and the SPD document which both reference recommended heights and illustrate a clear difference between the approaches on height between the two documents. Policy QP3a in particular notes that, increased height can be acceptable where justified to deliver sustainable development and facilitate intensification.

Our clients position is that policy QP3a and the SPD provide guidance on building height and the Neighbourhood Plan should not seek to go beyond these and impose maximum building heights particularly where they conflict with the Local Plan and SPD.

Policy DE-2 (Design Principles - Character Areas) concerns the creation of character areas to retain their appearance and features whilst encouraging good design. In association with this policy, a Design Code has been produced by Aecom, titled the Maidenhead Design Guidance and Codes which is provided as a supporting document.

10.7 The Editor's note at page 20 of the draft MNP states that, At the time of writing some details of the Design guidance and codes for the areas in section 4 of Appendix 2 need to be clarified. This comment calls into question the robustness of the emerging Neighbourhood Plan process. A policy relating to design should take consideration of the final version of the Design Code and would indicate that the Plan has not yet progressed to an appropriate stage to be published for consultation.

Getting Around (Section 6)

Our client supports policy GA-1 (Cycling, Walking and Bus Routes) which encourages sustainable transport measures including cycling, walking and bus routes and states that proposed development should show provision of safe access on foot and by cycle, and how this access connects to the town centre. The site at Sierra House has been designed to encourage sustainable travel, being car-free, including secure cycle parking above required standards and ensuring safe pedestrian access. Our client suggests it may be beneficial that reference is also made on connectivity to Maidenhead Train Station as this also offers sustainable travel options and is well connected to the town centre.

10.8 Policy GA-2 (Parking and Cycle Storage) states that new office development should provide their own cycle storage on site. A minimum of 1.5 spaces per 100sqm of lettable internal area should be provided. It would be helpful to reference where this figure has been sourced similarly it would

be helpful for tables included to reference which source they have been taken from. We recognise that the Boroughs Parking Strategy 2004 is rather dated.

Climate (Section 7)

10.9 The draft MNP, page 34, states that one of its objectives is to ensure that development proposals do not add to operational carbon emissions, which our client supports. Our client supports Policy CL-1 (Net Zero Development) which aims to reduce carbon emissions, especially the policy's first and third bullet points, the first stating that non-residential floorspace over 100sqm should provide clear reporting of built environment decarbonisation performance, focusing on operational and embodied energy/ emissions, and the third which seeks to minimise use of energy in line with the energy hierarchy.

Built Heritage (Section 8)

Policy BH-1 (Buildings in Conservation Areas) concerns buildings within conservation areas and specifically provides guidance for alterations to existing buildings and new buildings.

10.10 Whilst the policy points within BH-1 are generally supported, the second bullet point stating existing buildings should be retained, unless identified in the Conservation Area appraisal as having a negative effect forms a fundamentally flawed approach which lacks evidence and justification and conflicts with the adopted Local Plan and national planning policy and guidance.

Paragraph 220 of the NPPF states that not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 214 or less than substantial harm under paragraph 215, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

A blanket protection over all buildings in a conservation area, unless identified as a negative feature within a single document, goes against national planning policy. The contribution of each building/structure/site to the character and appearance of a conservation should be considered on a case by case basis and their potential loss (where resulting in harm) be weighed against the public benefits of the scheme, as per paragraphs 214 and 215 of the NPPF.

Whilst many conservation areas within Maidenhead have Conservation Area Appraisals, as stated within the draft MNP not all buildings in a Conservation Area are described in the Conservation Area appraisal, but nonetheless contribute to its character and are therefore expected to be retained. In order to provide reasoned evidence for this part of the policy, it would be expected that every building in each conservation area would need to be assessed to identify whether they make a positive or negative contribution which has not been undertaken.

It cannot therefore be expected that all buildings, unless already identified, make a positive contribution. It is not appropriate to consider that every building in a conservation area contributes to its character and appearance unless it is identified as a negative impact. In line with Appendix 1 within Historic England's guidance on Conservation Area Appraisal, Designation and Management, an assessment should be undertaken of each building to understand its contribution. This assessment has not taken place to underpin the draft MNP, and such sweeping statements should therefore not be included.

Additionally, within the Reasoned Justification section it is stated that the policies in this section aim to ensure that development proposals enhance or preserve the contribution made by such buildings. This is an incorrect interpretation of the statutory duty which is to preserve the character and appearance of the conservation area and not individual buildings.

10.11 We note that the basis of Policy BH-3 (The Setting of Heritage Assets) is incorrect as it assumes that setting is its own heritage asset. The setting of designated and non-designated heritage assets is the surroundings in which a heritage asset is experienced (NPPF Glossary), it contributes to the overall significance of the asset and is not protected in its own right. The consideration of the setting of designated and non-designated heritage assets is already covered by both national and local planning policies and this policy should therefore be deleted.

10.12 Policy BH-4 (Local List of Non-Designated Heritage Assets) and supporting Local Heritage Listing doc concern locally listed/non-designated heritage assets and views. The draft policy lacks refinement and consideration of the development plan, NPPF and legislative provisions.

There is also no mention within the Policy about the considerations of the NPPF, specifically paragraph 216 in consideration of the need to weigh public benefits of a proposal against the potential effect on a non-designated heritage asset. The first point within the policy that Locally Listed non-designated heritage assets should be retained is a vague statement without consideration of the nuances of each building/structure/site and wider development and planning needs. It also conflicts with Policy HE1 of the Local Plan which states that the loss of heritage assets will be resisted. Where this is proved not to be possible, recording in accordance with best practice will be required, which acknowledges that some heritage assets cannot be retained and mitigation will be necessary against their loss.

The reasoned justification section of the policy only refers to setting and requires significant expansion and explanation around the need for the list and why it is required.

In relation to the Draft Non-Designated Heritage Assets List, the introduction section of this document lacks any consideration of local and national planning policy and guidance. It provides no methodology as to the scope of the list and does not follow the relevant Historic England guidance (Advice Note 7: Local Heritage Listing (2021)). The first paragraph in particular reads in particularly colloquial form stating in very simplified layman's terms, this kind of list details heritage assets (i.e. buildings, places) which are valued and appreciated in the local area, and which people would like to see protected in cases where developers want to make changes demolish old stuff, build new stuff etc.

This definition and intended purpose of a Local List appears biased and misleading. The statement is flippant and lacks the professionalism expected of a document that will, if adopted, form part of the development plan. The definition provided reads as though the list has been compiled principally to prevent development (it is not just developers that submit applications for development) and that those identified on the list are those which are at risk of demolition. This does not follow the accepted purpose of a Local List as per Historic England's Advice Note on Local Heritage Listing which defines that a Local List should enable the significance of any building or site on the list to be better taken into account in planning applications affecting the building or site or its setting.

Further, identification of a building on the local list, or as a non-designated heritage asset, does not protect it instead it becomes a material consideration in the determination of planning applications. A Local List should compile a complete database of non-designated assets of local importance to help guide the planning and development process, not intentionally hinder it.

The creation of the list has used the guide criteria as set out in the Historic England Advice Note 7: Local Heritage Listing (2021). As per the guidance document, it is expected that the community producing the local list develop their own criteria which responds to the local heritage of their area. The use of the national Historic England guidance criteria means that the creation of the Local List lacks specificity or relevance to Maidenhead. There is no specific criteria which supports the identification of buildings to be added to the local list. This is especially prevalent considering that the draft list itself has locally relevant categories (such as Sir Nicolas Winton) which lack any evidence base without a local criteria to support them.

The assets identified within the list are provided with a proportionate level of information to justify their inclusion. However, without the creation of a specific local criteria, their significance is not suitably evidenced and a map should be provided of their location.

Biodiversity (Section 9)

Our client supports policy BI-2 (Sustainable Drainage Systems) which seeks for new developments and existing to include SUDS that benefit wildlife and help to alleviate flood risks.

Similarly, our client supports Policy BI-3 (Biodiversity Net Gain) and its objectives for developments to achieve a minimum 10% biodiversity net gain. In relation to the second bullet point which states, Where practicable, development proposals will be looked favourably upon where they secure a biodiversity net gain of 20% or higher, taking into account the scope for improvement from the pre-development site, our client also supports this approach, especially as Sierra House looks to provide around 300% BNG gain. We suggest that policy BI-3 may benefit from further clarity on this point to note that this favourable view will only apply where development is deemed acceptable as a whole in the context of national and local planning policy, and that there would be no other adverse effects as a result of looking more favourably on the 20% net gain. This is to ensure that the increase in biodiversity is not interpreted as an almost fast-track route at the expense of the overall quality of a development.

Our client also supports the draft MNPs point that in urban areas, urban greening is beneficial in creating new habitat areas; Sierra House will provide a green roof, contributing to the draft MNPs vision for urban greening.

10.13 Page 49 of the draft MNP suggests that Conditions to protect and enhance wildlife must be included with development proposals and that this means developers will have to agree to make provision for nature within the development before they are granted full planning permission. This is unclear; conditions are typically included with the grant of planning permission and are not included in development proposals. Developers can be bound to maintaining measures for BNG via a Section 106 Agreement and planning conditions but cannot provide any nature on-site before being granted planning permission and undertaking works on site. The draft MNP should provide further clarity on this point to avoid any misinterpretation.

10.14 Policy BI-4 of the draft MNP suggests that in the town centre, development should maximise green space provided on site by providing a number of specified measures. Our client supports the measures to boost increases in biodiversity but suggest that the measures outlined are clarified as being suggestions and not an exhaustive list of possibilities. This is because the approach used across each site may be different and flexibility should be allowed to ensure the ability to achieve biodiversity net gain is not compromised. A green roof is proposed at Sierra House, contributing alongside other measures to around a 300% increase in BNG at this location.

Infrastructure + Developer Contributions (Sections 1.3 + 11) and Delivery and Implementation (Section 12)

10.15 We note that both sections 11 and 12 are not yet available. It will be necessary for all parties to have the opportunity to review and comment on these before the draft MNP progresses further.

DESIGN CODE DOCUMENT

Role of the Design Code

Section 1.1 of the Design Code states, The general design guidelines and specific codes set out in this report will provide a detailed framework that should be followed by any future design proposals that come forward within the neighbourhood area. The document goes on to state that, It is intended that this report becomes an integral part of the Neighbourhood Plan.

We believe that these statements require clarification as the first point appears to suggest the Design Code's purpose is to provide a general guide but then progresses to say that it will be an integral part of the Neighbourhood Plan suggesting that design proposals will be required to follow its detailed framework.

10.16 Should the Design Code later be adopted as an integral part of the draft MNP as suggested, it should clarify the role it will play i.e. will it provide general guidelines and advice, or does it seek to offer a more detailed, prescriptive code which future planning applications will be required to adhere to and be assessed against.

Building Height

Part of 10.6 The Design Code at page 8 outlines relevant planning policy and guidance. It suggests that the Building Heights and Tall Buildings SPD provides a framework for assessing planning applications and tall building principles, potential locations for increased height, large and tall buildings. As stated, under section 4 (Design), we note the discrepancies within the SPD and adopted policy. We therefore re-iterate the caution that should be applied in using policy QP3a and the SPD in conjunction and that each site should be considered on its individual merits.

10.17 Figure 50 of the Design Code provides a diagram illustrating how building heights can be utilised within the Town centre for placemaking and wayfinding. We note that the diagram specifically illustrates a taller building next to a shorter building stating, Tall buildings should not be unfitting with the surrounding context i.e. placed next to notably shorter dwellings. This diagram is overly prescriptive and does not take into account the wider surrounding context or site specific circumstances. There are many areas of the town centre where a juxtaposition between building heights is seen. This can add interest to an area and provide an effective transition between building heights, e.g. where it provides a stepping down from taller buildings towards decreasing building heights. We suggest that this diagram is removed or updated to enable more flexibility for site specific circumstances where a juxtaposition in building heights may be acceptable.

Opportunities in Maidenhead

The Design Code at page 45 notes the following by way of opportunities for the Maidenhead Town Centre Character Area:

Use of sensitive contemporary design appropriate to the adjacent Historic core to enhance the special character of the area; and

Reduce the impact of parking provision to ensure cars or car parks do not dominate.

Our client supports these statements, highlighting that contemporary design can help to revitalise the Town Centre and improve areas which are currently run-down. The new building proposed at Sierra House aims to fulfil both of the above providing a high quality, contemporary, new building; including significant enhancements to St. Marys Walk, and providing a car-free scheme to reduce the use of cars and encourage uptake of sustainable travel modes.

Character Appraisal Historic Core and Maidenhead Town Centre

We note that the Design Code establishes fifteen character appraisals across the Neighbourhood Plan area and that each appraisal establishes a number of forces for change. The Historic Core area defines one such force for change as, Redevelopment of plots at increased heights, changing the structure of the streetscape. Our client supports this approach to enable increased heights as there are a number of varying heights across the town centre and redevelopment to enable taller heights at certain locations, where this is deemed appropriate, may enable better utilisation of sites in line with the NPPF this promotes and supports the development of under-utilised land and buildings.