



Appeal Decision

Site visit made on 23 September 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 November 2025

Appeal Ref: APP/T0355/W/25/3360962

Peter Freedbodys Yard, Boulters Lock Island, Maidenhead SL6 8PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Peter Freebody & Co. Ltd against the decision of Royal Borough of Windsor and Maidenhead.
- The application Ref is 23/02293.
- The development proposed is replacement boatyard workshop, re-siting of jetty, new pathway, docks, and slipway.

Decision

1. The appeal is allowed and planning permission is granted for replacement boatyard workshop, re-siting of jetty, new pathway, docks and slipway at Peter Freedbodys Yard, Maidenhead SL6 8PE in accordance with the terms of the application, Ref 23/02293, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans have been submitted with the appeal. The amendments include reducing the length of the proposed workshop building by approximately 1 metre and omitting an access path to one side of the boathouse, so all proposed built development would be beyond the 8 metre buffer zone of the River Thames on the western side of the site. Also, accompanying the amended plans, updated versions of the Biodiversity Net Gain (BNG) report and matrix assessments, Flood Risk Assessment and CIL form have also been provided.
3. Additionally, a completed Unilateral Undertaking (UU), pursuant to s106 of the Town and Country Planning Act 1990, as amended, has been submitted, dated 17 February 2025. This includes provisions for off-site BNG and its monitoring, including payment of a BNG plan monitoring contribution to the Council.
4. The appeal process should not be used to evolve a scheme. However, having regard to relevant caselaw¹, the overall scheme would remain essentially the same, albeit with the size of the building slightly reduced and a pathway omitted. As such, the amended proposals would not be so fundamental as to result in a different application. Also, having regard to the representations received in relation to the planning application and appeal, I consider there would be no procedural unfairness caused to any party by considering the amended plans. Representation made by the Environment Agency (EA) (dated 10 April 2025) in regard to the appeal submission, sets out that the amended proposal overcomes its previous objections. Furthermore, the Council and other parties have had opportunity to

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37] and Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin).

comment on the amended plans and information as part of the appeal process. Therefore, I have determined the appeal proposal on the basis of the amended plans and information.

5. An updated version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and so, I have had regard to this in reaching my decision.

Main Issues

6. The main issues are the effect of the proposed development on biodiversity, in particular regard to the reduction of undeveloped riverbank and, whether the proposed development would provide appropriate biodiversity net gain.

Reasons

Riverbank and Biodiversity

7. Policy QP4 of the Royal Borough of Windsor & Maidenhead Borough Local Plan 2013-2033 (BLP) supports appropriate proposals associated with river related activities and employment. However, part f of Policy QP4 and part 9 of Policy NR1 of the BLP set out that *where appropriate*², development proposals should retain or provide an undeveloped 8 metre buffer zone on both sides of a main river, measured from the top of the riverbank.
8. The proposed development, as amended, would be outside the required 8m undeveloped buffer zone of the riverbank on the western side, yet within 8m of the riverbank on the eastern side of the site. However, from the evidence provided, the main river leads round the western side of the island, rather than the eastern side. Additionally, the initial concerns of the EA related to the potential harm to the functional wildlife corridor regarding the riparian corridor on the western side of the site and, the Council's reason for refusal refers to harm caused by encroachment into the riparian corridor on the western side of the site.
9. While the proposed building would be larger than the existing and previous buildings on the appeal site, based on the evidence provided, the new building would not be closer, at the nearest point, to the eastern riverbank than existing or previous buildings on this side of the site. The proposed building would largely replace existing built form and be on areas of existing hardstanding, which are already within 8m of the eastern riverbank. Therefore, the eastern side of the site is not historically, nor predominately undeveloped riverbank. Also, the proposal would maintain existing tree cover to the main, western undeveloped riverbank and, no significant trees would be affected by the proposed development.
10. The EA sets out that their previous objections have been resolved concerning the proximity of the proposed development to the main river. Furthermore, even though there would be some intrusion into parts of the site that are within 8m of the eastern riverbank that have not been previously developed, this would not be significant, and no substantive ecological evidence has been provided to demonstrate that any protected species or important habitats would be harmed by the proposed development. Furthermore, biodiversity enhancements would be provided as part of the proposal, which could be appropriately controlled via condition. Therefore,

² My emphasis.

without evidence to the contrary, the ecological value of the river would be maintained and the proposal would unlikely cause harm to biodiversity interests.

11. The proximity of the new building to the river channel on the eastern side is necessary for the operational function of the boathouse, including dock slipway access for boats. The proposal would bring the appeal site back into use as a boatyard, aligned with its historical and appropriate river related employment use, with operational requirements to be close to and directly interact with the river. The pre-text of policy QP4 supports such types of development, setting out that river-related services, businesses and infrastructure, make an important functional contribution to the character and use of the River Thames. It continues, that this is especially the case for those involving the construction, repair and servicing of river craft that make a vital contribution to the continuation of the historic traditions and function of the River Thames.
12. Therefore, even though there would be intrusion into the 8m buffer zone of the riverbank on the eastern side of the site, this is not part of the main river or principally undeveloped riverbank. Furthermore, the proposal would be appropriate development in this location and would not cause harm to biodiversity. Consequently, the new development is justified.
13. Having regard to the above, the proposed development would not harm biodiversity interests in particular regard to the reduction of undeveloped riverbank. Therefore, the proposal would comply with Policies QP4, NR1 and NR2 of the BLP, which amongst other matters, require development proposals to maintain, conserve, and enhance biodiversity.

Biodiversity Net Gain (BNG)

14. The appeal proposal is not subject to the mandatory requirements for BNG, as the planning application was submitted prior to 12 February 2024. In such circumstances it is not necessary for the appellant to demonstrate that the development would achieve a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. Although Policy NR2 of the BLP sets out that development proposal will be expected to demonstrate how they maintain, protect, and enhance biodiversity of application sites, including in relation to river corridors and other water bodies and the presence of protected species.
15. Even though the BNG assessment undertaken used an earlier version of the Defra metric and does not include watercourses, there was no necessity to carry out a Defra metric in this instance. Furthermore, as set out above, it has not been demonstrated that the proposal would cause harm to the watercourse habitat or any protected species. Additionally, I have no substantive evidence to dispute the appellant's assertion that the site surveys were carried out before more recent site clearance took place. Consequently, on balance, the appropriate value of the habitat was considered for the BNG assessment calculations for the appeal proposal.
16. While the proposal involves creating new docks and slipways that would directly affect the riverbank and watercourse, these would replace the existing structures, which would be infilled as part of the proposed development. Therefore, there would be no significant change to the riverbank, nor any evidence that this, or the new development as a whole, would harm the biodiversity of the watercourse.

17. As demonstrated in the BNG report, the appeal proposal would provide biodiversity enhancement. The EA has raised no objections in regard to the impact on the watercourse, and I am satisfied that appropriate BNG could be provided, managed, and monitored by conditions and the submitted UU agreement, including off-site biodiversity enhancements to be provided.
18. Therefore, in view of the above, the proposed development would provide appropriate biodiversity net gain, in compliance with Policy NR2 of the BLP.

Other Matters

16. As the appeal site is within the Maidenhead Riverside Conservation Area (CA), I have had regard to my statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the CA is derived from its riverside frontage, with its background as a historical riverside resort and river based industry, including industrial associations with Mill buildings and the lock system and transport links of the river. Also, the special interest of the CA, includes extensive mature planting and the number of public parks, providing attractive features for visitors and the local community.
17. Due to the scale and location of the proposed building, it would be prominently visible within and across the CA from certain viewpoints. However, the proposal would re-instate a boatyard within the appeal site, harking back to the industrial background of the site and transport interest related to the River Thames. Furthermore, while the proposed building would be larger than the existing buildings, it would be of a simple and sympathetic design, incorporating traditional external materials. No important significant trees or vegetation would be removed and so, the verdant character of the area would be maintained. This would ensure the proposed development would complement the distinctive character of the water frontage and not cause harm to important views.
18. Additionally, the proposed development would not have a negative effect on the recreational enjoyment of nearby public park areas, and existing riverside access and the navigation of the river would be maintained. Consequently, the proposal would cause less than substantial harm to the significance of the CA at the lower end of the scale.
19. The proposal would provide some social, environmental, and economic benefits. It would redevelop derelict buildings and bring an underused site back into a viable use for traditional boatbuilding, thereby supporting river related employment and the enjoyment of the river and provide some visual and biodiversity enhancements. Therefore, the proposed development would promote the healthy growth in the use of the River Thames, while ensuring its special character and setting and that of the CA is appropriately conserved and enhanced. Such public benefits would be significant and outweigh the less than substantial harm caused to the significance of the CA.
20. The appeal site is within Flood Zone 2 and 3 and so, is at risk of flooding. However, the Flood Risk Assessment demonstrates that the proposal would be a water compatible use and appropriate mitigation measures, secured by condition, would manage flood risk and drainage and so, ensure compliance with Policy NR1 of the BLP in regard to the management of flood risk.

21. Access for emergency services and deliveries would be no different to existing. No substantive evidence has been provided to demonstrate that any undue harm caused in relation to such matters, nor that the proposal would be unacceptable in regard to climate change and energy efficiency. Therefore, these are neutral matters which do not affect my findings on the main issues.

Conditions

22. Having regard to the advice contained within the Planning Practice Guidance and the National Planning Policy Framework, I have considered the conditions suggested by the Council and any comments made by the appellant on conditions.
23. In addition to the standard implementation condition, it would be necessary in the interests of certainty to define the plans with which the scheme should accord. In view of the sensitive riverbank location and to protect and enhance biodiversity and the character and appearance of the area, in accordance with aforementioned policies contained in the BLP, it would be necessary to include conditions requiring the approval of appropriate external materials for the new building and landscaping and biodiversity measures, including the provision, management and maintenance of appropriate BNG.
24. Due to the proximity to the watercourse and the previous fire on the appeal site, with the potential for fire extinguishing foam agents containing pollutants to be present, conditions are necessary and reasonable to ensure the proposed development would not cause harmful pollution of the watercourse and its habitats. This needs to include a requirement that a contaminated land investigation be carried out prior to work commencing on site and any remediation required carried out and verified and that, no surface water drainage from the development is infiltrated into the ground.
25. As the appeal site is within an area at risk of flooding, a condition is necessary to ensure the new development incorporates flood mitigation measures, so it does not cause any exacerbation of flooding and to protect anyone using or working within the development.
26. Informative notes have been recommended by various interested parties, including in regard to construction dust control, smoke nuisance, water navigation impact, and need for licences. However, such matters would be appropriately managed by other, non-planning legislative or other requirements. Therefore, while informative notes have no weight in regard to planning permission, conditions relating to such matters are not needed to make the proposed development acceptable on planning grounds.

Conclusion

27. For the reasons given above, the appeal would accord with the development plan read as a whole and there are no material considerations that indicate otherwise.
28. Accordingly, the appeal is allowed.

C Billings

INSPECTOR

See overleaf for Schedule of Conditions

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing Nos, GA.01 Rev 5; GA.02 Rev 5; and GA.03 Rev 2.
3. No development shall take place until details of all external facing materials, including product information, colour and samples thereof, have been submitted to and approved in writing by the local planning authority. This shall include details of doors, windows, rooflights, floodwater opening grilles (rods) and all visible rainwater goods. The rooflights shall be flush or just below the roof plane and of powder coated metal of a dark grey colour/tone. The development shall be carried out in accordance with the approved details.
4. No development, demolition, preparatory or site clearance works shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape scheme shall include details of all existing trees and hedgerows on the site, identify those to be retained, and set out measures for their protection throughout the course of the development. The protection measures shall be in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction and be in place before any works or development take place or any machinery or materials related to the development are brought onto the site. Nothing shall be stored or placed within any fenced protected area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.
5. No development shall take place, including any works of demolition, ground works, and vegetation clearance, until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - a. Risk assessment of potentially damaging construction activities.
 - b. Identification of "biodiversity protection zones".
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on biodiversity during construction, including precautionary measures.
 - d. Invasive species removal method statement (if applicable).
 - e. The location and timing of sensitive works to avoid harm to biodiversity features.
 - f. The times during construction when specialist ecologists need to be present on site to oversee works, where appropriate.
 - g. Responsible persons and lines of communication in relation to the CEMP and measures to be implemented.
 - h. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - i. Details of the use of protective fences, exclusion barriers, and warning signs.The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction of the development.

6. No development shall take place until a Biodiversity Net Gain Plan (BNG Plan) based on the net gain information provided with the proposal, detailing how the habitats on and off site will be created, established, enhanced, managed, and monitored, has been submitted to and approved in writing by the local planning authority. The BNG Plan shall thereafter be implemented and maintained in accordance with the approved details.
7. No development shall take place until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the Biodiversity Gain Plan (BNG Plan) has been submitted to, and approved in writing by the local planning authority. The HMMP shall include:
 - a) a non-technical summary;
 - b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.Notice in writing shall be given to the local planning authority when the HMMP works have started.
8. No construction or demolition work or deliveries or commercial vehicle movement associated with the construction or demolition of the development shall be carried out or plant operated other than between the following hours: 0800 hours and 1800 hours on Monday to Fridays, 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.
9. No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii. the site has been remediated in accordance with the approved measures and timescale; and
 - iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning

authority; and ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

10. The development shall be carried out in accordance with the Flood Risk Assessment (FRA), by Water Resource Associates, dated February 2025. This shall include that there will be no raising of existing ground levels on site and all walls or fencing within or around the site shall be designed to be permeable to flood water, in accordance with section 4-2 of the FRA; the infilling and excavation of replacement slipways will retain a volume of 36.09 cubic metres, in accordance with table 4-1 and section 4-3 of the FRA and that, the design of the building is fully flood resistant, in accordance with the measures set out in section 4 of the FRA. The flood mitigation measures implemented shall thereafter be maintained for the lifetime of the development.
11. The development shall not be brought into first use until: (a) the habitat creation and enhancement works set out in the approved HMMP, as submitted and agreed pursuant to condition 7, have been completed; and (b) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the local planning authority. The created and/or enhanced habitat specified in the approved HMMP shall thereafter be managed and maintained in accordance with the approved HMMP. Monitoring reports shall be submitted to the local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.
12. The drainage system for the development shall not include the infiltration of surface water to the ground.
13. Prior to the installation of any external lighting, full details including height, design, location, intensity, together with a report detailing how any external lighting will not adversely affect wildlife (lighting and wildlife report), shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details. The lighting and wildlife report shall include the following:
 - A layout plan with beam orientation
 - A schedule of equipment
 - Measures to avoid glare
 - An isolux contour map showing light spillage to 1 lux both vertically and horizontally, areas identified as being of importance for commuting and foraging bats, and locations of bird and bat boxes.
14. All planting, seeding, or turfing comprised in the approved landscaping scheme (pursuant to condition 4) shall be carried out in the first planting and seeding seasons following the first use of the building or the completion of the development, whichever the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species.

End of Schedule