

Elmbridge Borough Council
Development Control
Civic Centre High Street
Esher
Surrey
KT10 9SD

Our ref: WA/2023/130400/01-L01
Your ref: 2022/3796
Date: 16 May 2023

Dear Sir/Madam

Development Of 2 Detached Blocks Comprising 33 Flats With New Vehicular Access, Associated Parking, Cycle Storage, Refuse Storage And Amenity Areas With Hard And Soft Landscaping, And Associated Engineering And Infrastructure Works, Following Demolition Of Existing Houses

16-18 Oatlands Drive Weybridge Surrey KT13 9JL

Thank you for consulting us on the proposed development noted above and thank you for agreeing an additional timeframe for the provision of our comments.

We have reviewed the following documents with regards to our planning remit:

- Flood Risk Assessment (ref: 221584/FRA/MK/RS/01 Rev A) dated November 2022 prepared by Lanmor consulting

According to our Flood Map for Planning, the application site partially lies within Flood Zones 2 and 3, which is land defined by the Planning Practice Guidance (PPG) as having a medium and high probability of flooding respectively. In addition, our detailed flood modelling (Maidenhead and Sunbury) shows the site partially lies within Flood Zone 3b – Functional Floodplain.

Environment Agency position

In accordance with Policy CS26 of the Elmbridge Core Strategy (July 2011) and paragraphs 164 and 167 of the National Planning Policy Framework (NPPF), in the absence of an acceptable Flood Risk Assessment (FRA) we **object** to this application and recommend that planning permission is refused.

Reasons

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to take the impacts of climate change into account.

Different climate change allowances have been used to assess future flood risk than those advised in '[Flood risk assessments: climate change allowances](#)', without adequate justification. The applicant used the Maidenhead and Sunbury Management Catchment 2080's central allowance for climate change of 35%. However, the higher central allowance (47%) should have been used because more vulnerable and highly vulnerable development is proposed on the site which partially falls within Flood Zone 3b – Functional Floodplain.

Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they demonstrate the development will not be safe for its lifetime as finished floor levels are not proposed at least 300mm above the 1% annual exceedance probability (AEP) plus a 47% allowance for climate change flood level.

This objection is in accordance with paragraph 164 of the NPPF which states development must be safe for its lifetime without increasing flood risk elsewhere and paragraph 167 of the NPPF which states development must be appropriately flood resistant and resilient. In addition, Policy CS26 of the Elmbridge Core Strategy (July 2011) states development must be located, designed and laid out to ensure that it is safe; the risk of flooding is minimised whilst not increasing flood risk elsewhere; and that residual risks are safely managed. Furthermore, it states planning permission will only be granted where it can be demonstrated that it would not constrain the natural function of the flood plain, either by impeding flood flow or reducing storage capacity.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted.

Specifically, the FRA will need to:

- Determine the 1% AEP plus a 47% allowance for climate change flood extent and level and use this as the design flood event.
- Finished floor levels should then be raised to be a minimum of 300mm above the estimated design flood level, so the development will be safe from flooding.
- The applicant should also demonstrate the proposed built footprint will be located outside the flood event. We recommend that a plan is submitted comparing the proposed buildings to a topographical survey and the design flood level.

We note basement dwellings are proposed, which are classed as highly vulnerable in accordance with Annex 3 of the NPPF, and welcome that internal access to the ground floor has been proposed.

Sequential test – advice to Planning Authority

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used. Further guidance on the area of search can be found in the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Exception test – advice to Planning Authority

In accordance with the National Planning Policy Framework (paragraphs 164 and 165), the proposed development is appropriate provided that the site meets the requirements of the exception test. Our comments on the proposals relate to the part of the exception test that demonstrates the development is safe. The local planning authority must decide whether or not the proposal provides wider sustainability benefits to the community that outweigh flood risk.

The exception test should only be applied as set out in flood risk table 3 of the Planning Practice Guidance (PPG) following application of the sequential test. The exception test should not be used to justify the grant of planning permission in flood risk areas when the sequential test has shown that there are reasonably available, lower risk sites, appropriate for the proposed development.

In those circumstances, planning permission should be refused, unless you consider that sustainable development objectives make steering development to these lower risk sites inappropriate as outlined in PPG (ref ID: 7-033-20140306).

Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 164). In order for the test to be passed it must be demonstrated that

1. The development would provide wider sustainability benefits to the community that outweigh flood risk; and
2. 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.

Paragraph 165 of the NPPF makes clear that both parts need to be met for the test to be satisfied. It is for the applicant to demonstrate this.

We provide advice on the second part of the test, but it is for you, as the local planning authority, to consider the first part of the test, accounting for the findings of the flood risk assessment and our flood risk advice, and to determine whether the test, overall, has been satisfied. Development that does not satisfy both parts of the exception test should be refused.

Where the flood risk assessment shows the development will be safe throughout its lifetime without increasing flood risk elsewhere

Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by flooding. You will need to weigh these risks against any wider sustainability benefits to the community.

Other Consents – advice to applicant

As you are aware we also have a regulatory role in issuing legally required consents, permits or licences for various activities. We have not assessed whether consent will be required under our regulatory role and therefore this letter does not indicate that permission will be given by the Environment Agency as a regulatory body.

The applicant should contact 03708 506 506 or consult our website to establish if consent will be required for the works they are proposing. Please see <http://www.environment-agency.gov.uk/business/topics/permitting/default.aspx>

Final Comments

Thank you again for consulting us on this application. Our comments are based on the best available data and the information as presented to us.

If you are minded to approve this application for major development contrary to our flood risk objection, we request that you contact us to allow further discussion and/or representations from us in line with the [Town and Country Planning \(Consultation\) \(England\) Direction 2021](#).

This statutory instrument prevents you from issuing planning permission without first referring the application to the Secretary of State for Housing, Communities and Local Government (via the National Planning Casework Unit) to give them the opportunity to call-in the application for their own determination. This process must be followed unless we are able to withdraw our objection to you in writing. A failure to follow this statutory process could render any decision unlawful, and the resultant permission vulnerable to legal challenge.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me. Please quote our reference number in any future correspondence.

Yours faithfully

Miss Chloe Alma-Daykin
Planning Advisor

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