

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

Our ref: WA/2023/130400/02-L01
Your ref: 2022/3796
Date: 17 August 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 re-consulting us on the above application on 27 June 2023 following the submission of Amended Flood Risk Assessment (reference: 221584/FRA/MK/RS/01 revision B, dated November 2022 prepared by Lanmor Consulting) and thank you for agreeing an additional timeframe for the provision of our comments.

Environment Agency position

We have reviewed the amended Flood Risk Assessment named above and consider that it satisfactorily addresses our earlier concerns. Subject to the **condition** below, we therefore withdraw our previous objection, dated 16 May 2023 (reference: WA/2023/130400/01-L01).

The applicant has used a flood level of 11.57 mAOD to represent a 1% + 47% climate change allowance event. The flood level for the 35% climate change scenario is 11.47 mAOD and the flood level for the 70% climate change scenario is 11.77 mAOD. As a result, we are satisfied that the flood level used to demonstrate the 47% climate change event is appropriate in this instance. The applicant has proposed a finished floor level of 11.925 mAOD which is 350mm above the climate change extents. The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref 221584/FRA/MK/RS/01) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 11.925 metres above Ordnance Datum (AOD).
- There shall be no built development within the 1% annual exceedance probability plus 47% climate change flood extent in accordance with Drawing MA212-250-255 - Proposed Site Plan. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

This condition is in accordance with paragraph 167 of the NPPF and seeks to reduce the risk of flooding to the proposed development and future occupants.

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.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

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. 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

Direct dial 0203 025 9872

E-mail Planning_THM@environment-agency.gov.uk