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## Appeal Decision

Site visit made on 4 April 2017

by **R W Allen B.Sc PGDip MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 April 2017

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**Appeal Ref: APP/M5450/D/17/3170565**  
**27 Warwick Avenue, Harrow HA2 8RE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Seshagiri Rao Rayala against the decision of the London Borough of Harrow.
  - The application Ref P/4929/16, dated 18 October 2016, was refused by notice dated 9 January 2017.
  - The development proposed is retrospective application for rear outbuilding.
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### Decision

1. The appeal is allowed and planning permission is granted for retrospective application for rear outbuilding at 27 Warwick Avenue, Harrow HA2 8RE in accordance with the terms of the application, Ref P/4929/16, dated 18 October 2016, subject to the following conditions:
  - 1) The outbuilding hereby permitted shall not be occupied at any other time other than for purposes ancillary and incidental to the residential use of the dwelling.
  - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no windows, doors or other openings shall be installed in the south-east flank elevation of the building hereby permitted without the prior permission in writing of the Local Planning Authority.

### Main Issue

2. The main issue is whether the proposal would be at risk from flooding or increase flood risk elsewhere.

### Reasons

3. The Council states that the appeal site falls within Flood Zone 2 according to the Environment Agency's mapping, and within Flood Zone 3a and 3b within the Harrow Strategic Flood Risk Assessment, where there is a high probability of flooding. This is not disputed by the appellant and I have no reason to disagree. The appeal site already benefits from a lawful development certificate (*Council Ref: P/2776/15*) (the LDC scheme) for a slightly smaller but nonetheless similar sized building and positioning on the plot as the appeal scheme. The LDC scheme does not need to comply with flood risk requirements. The principle difference between the LDC scheme and the
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proposal before me is the use of the building and the internal floor arrangement. The LDC scheme is for a garage, whereas the appeal building is for a gym and store room, and which is also equipped with a shower room and W.C.

4. Paragraph 046 (*Reference ID: 7-046-20140306*) of the Planning Practice Guidance (the Guidance) does not differentiate between different types of domestic uses of buildings within the curtilage of a dwelling house in respect of flood risk. It refers to such buildings, examples of which include sheds, garages and games rooms, as 'minor development'. Paragraph 047 (*Reference ID: 7-047-20150415*) of the Guidance advises that minor developments are unlikely to raise significant flood risk issues except in specific circumstances; none of which the Council has specifically cited as pertinent in this appeal.
5. In my judgement, the existence the LDC scheme has a significant bearing on this case, as the appellant suggests. The Council has not provided any sufficient explanation as to whether it took into consideration the existence of the LDC scheme or the advice in the Guidance in making its own decision on the proposed development. Accordingly, the Council has not outlined what it considers are the increased flooding risks from the proposed development over and above that of the LDC scheme. On the evidence before me, I am not persuaded that the proposed outbuilding would be any more vulnerable to an increased risk of flooding, or would increase flood risk elsewhere, over and above the LDC scheme.
6. I therefore find in the circumstances that a FRA is not required in this case. The proposed development would I find accord with policies 5.12 B and 5.13 A of the London Plan (Consolidated with Alterations Since 2011) 2016, and with Policy CS1 U of the Harrow Core Strategy 2012, and with Policies DM 9 and DM 10 of the Harrow Council Development Management Policies 2013. These policies require development to be managed to achieve an overall reduction in flood risk, and to increase resilience to flood events, and deal with flood risk management.

### **Conditions**

7. I have considered the conditions suggested by the Council against paragraph 206 of the National Planning Policy Framework, and made changes necessary to comply with those requirements. A condition restricting the use of the outbuilding to that ancillary and incidental to the dwelling is necessary in the interests of the living conditions of occupiers of neighbouring properties; and also to prevent the unit being used separately and independently from the main dwelling, which would exclude it from being 'minor development' as defined in the Guidance, and thus could be subject to a flood risk assessment and potential mitigation. A condition restricting flank windows is also necessary in the interests of protecting the living conditions of surrounding properties.

### **Conclusion**

8. For the reasons given above I conclude that the appeal should be allowed.

*R Allen*

INSPECTOR