



Appeal Decision

Site visit made on 8 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2020

Appeal Ref: APP/T0355/W/20/3253488

21A Queens Road, Datchet SL3 9BN

- 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 Mrs Isabel Gill against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/01703, dated 26 June 2019, was refused by notice dated 9 December 2019.
 - The development proposed is a change of use from B1 (Office) to C3 (dwellinghouse), construction of a single storey rear extension and alterations to fenestration.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal includes a safe access and escape route for future occupiers in times of flood.

Reasons

3. The site is located in Datchet, within Flood Zone 2, which is a zone at intermediate risk of flooding. The proposal is for residential development, which is classed as being more vulnerable to the effects of flooding. Paragraph 163 of the National Planning Policy Framework (the Framework) requires that safe access and escape routes are included where appropriate. Given the combination of risk (flood zone) and baseline vulnerability (residential development where people sleep in the building), in addition to the potential added vulnerability of some future occupiers (such as the elderly or disabled who may have mobility needs), it is appropriate to ensure that safe access and escape routes are provided as part of the proposal.
4. Planning Practice Guidance¹ states that such routes should allow occupants to safely access and exit their property in design flood conditions. That is, during design flood conditions. The ability to evacuate prior to extreme flood conditions does not necessarily remove this requirement or influence whether it is appropriate or not. Limited depths of flooding along the route may be acceptable, but only where such depths are not dangerous. The Flood Risk Assessment and Drainage Strategy 2019 clearly demonstrates that the routes associated with the proposal would be at risk of flooding to depths that would cause danger to future occupiers. This would be for an appreciable distance along the routes before reaching an area of safety.

¹ 039 Reference ID: 7-039-20140306

5. Consequently, future occupiers would need to rely on an early warning system almost in isolation, and if this failed or if flooding occurred whilst they were asleep, they could potentially become stranded and require emergency assistance. Without access or escape routes that can be used safely during design flood conditions, the risk posed to future occupiers would not be fully mitigated and there would be unacceptable residual effects.
6. I acknowledge reference to various appeal decisions and the need to understand site specific circumstances. However, the example² nearby deals with a proposal classed as less vulnerable development, whereas the proposal in this case is for more vulnerable development and therefore has a different threshold for determining whether safe routes are appropriate. Other examples³ are in a different local planning authority area with different flooding and regeneration contexts and are therefore not comparable. In any event, the access to the site in the example appears to be through Flood Zone 1 whereas the proposal in this case is through Flood Zone 2 and occupants are of greater danger during flood conditions. The example⁴ in a neighbouring local planning authority area suggests that the evacuation route would remain dry for 324 hours (13.5 days) into a rising flood and represent a substantial minimum onset time (like the proposal) with which to mitigate risk to future occupant evacuation. Irrespective of the minimum onset time, it is not clear that future occupants of the proposal in this case would receive that amount of time as warning or to mitigate risk. The Flood Risk Assessment and Drainage Strategy 2019 shows that as a worst case scenario the Environment Agency could only provide 'flood alerts' two hours in advance of flooding and 'flood warnings' 30 minutes in advance of flooding. In any event, for reasons already given, irrespective of the warning period there would still be a requirement to provide safe access and escape routes during design flood conditions.
7. The proposal is likely to put less people at risk of flooding compared to the existing office use, which could potentially accommodate more people at any one time. However, the uses are of different vulnerabilities (less vulnerable and more vulnerable) and the relative intensity or nature of the uses are not comparable. Even though both uses are considered acceptable in principle within Flood Zone 2 in accordance with Table 3 of Planning Practice Guidance⁵, it is clear that the site specific considerations, due to the nature of the uses, are very different and need to be assessed differently when making a determination in accordance with Paragraph 163 of the Framework.
8. Regarding temporary refuge, it is not clear whether the extended onset times for flooding to occur would also apply to the time taken for flooding to recede. Consequently, it may be the case that future occupiers become stranded in a place of refuge for periods of time that are not appropriate, requiring rescue. Notwithstanding, there is no evidence to suggest that the existence of temporary refuge removes the requirement to deliver safe access and escape routes during design flood conditions. Similarly, I acknowledge the appellant's contentions that the frequency of flooding should be borne in mind and that it is lower than Flood Zone 3 which poses more risk of flooding, that the most recent flooding event in 2014 did not affect the site and further works to create flood storage capacity and community measures have been implemented.

² APP/T0355/W/18/3206250

³ APP/H3320/A/08/2071288

⁴ APP/Q3630/W/16/3146306

⁵ 067 Reference ID: 7-067-20140306

9. However, the Framework is clear that such a proposal in Flood Zone 2 is still required to demonstrate safe access and escape routes, where appropriate. To this end, and as already reasoned, it is appropriate in this case. Overall, the proposal would not include a safe access and escape route for future occupiers in times of flood and it therefore conflicts with Policy F1 of The Royal Borough of Windsor and Maidenhead Local Plan 2003 and Paragraph 163 of the Framework. Among other things, these seek to ensure that development comes forward in an acceptable manner in areas at risk of flooding.

Other Matters

10. The proposal would contribute to a shortfall in housing land supply and is well located in relation to services. However, the application of policies in the Framework that protect areas at risk of flooding provides a clear reason for refusing the development. Consequently, the presumption in favour of sustainable development under Paragraph 11 d) of the Framework has not been established. The appellant cited a new appeal at final comments stage. Consequently, this is new evidence that other parties have not had the opportunity to comment on. I am mindful of guidance within Procedural Guide - Planning Appeals – England 2020 which states that new evidence will only be exceptionally accepted where it is clear that it would not have been possible for the party to have provided the evidence when they sent their full statement of case. There are no exceptional reasons why this evidence could not have been provided as such or why it should be exceptionally accepted. It therefore carries limited weight.

Conclusion

11. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR