
Appeal Decision

Site visit made on 8 July 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/T0355/W/22/3294452

**Land West of Upper Bray Road, Upper Bray Road, Bray, Maidenhead
SL6 2DB**

- 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 John Yates against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/02246, dated 15 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is described as 'Erection of an agricultural building for the purposes of storing hay'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan (2003) was referred to by the Council in its reason for refusal and associated officer's report. However, this has since been superseded by Policy NR1 of the Royal Borough of Windsor and Maidenhead Borough Local Plan 2013 – 2033 (adopted 2022), ('Borough Local Plan'), which was adopted since the appeal was submitted.
3. Despite the adoption of the Borough Local Plan, the matters of contention in the appeal remain the same. Additionally, Policy NR1 of the Borough Local Plan aligns with relevant national policy contained within the National Planning Policy Framework (the Framework). Notably, the Council's decision notice for the original application also cited relevant provisions of the Framework as part of its reason for refusal.

Main Issue

4. The main issue is whether the proposal is in a suitable location having regard to flood risk.

Reasons

5. The appeal site comprises part of an agricultural holding on the outskirts of Bray. The proposal involves the erection of an open-sided agricultural building. Both main parties agree that the site is located within Flood Zone 3.

6. The Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through a sequential test. Policy NR1 of the Borough Local Plan also includes this provision.
7. Despite the scale and characteristics of the proposal, the appeal scheme does not meet the specific definition given for minor development in the PPG¹. Both national and local policy therefore require the application of the sequential test, to establish whether there are other reasonably available sites for the proposed development, with a lower probability of flooding.
8. The appellant has not submitted a Flood Risk Assessment (FRA) and has not carried out a sequential test. Therefore, it has not been demonstrated that there are no reasonably available alternative sites or locations for the proposed development in Flood Zones 1 or 2.
9. The appellant contends that having regard to the 'Technical Guidance to the National Planning Policy Framework', the proposal is for a less vulnerable development, which is deemed to be compatible with Flood Zone 3. The guidance referred to by the appellant was withdrawn in March 2014 following the launch of the PPG. Despite this, the PPG is consistent with the previous technical guidance document in respect of the flood risk vulnerability and flood zone compatibility. The appellant also highlights that the barn incorporates measures to reduce flood risk, including its open-sided design, permeable flooring and minimal foundations. However, these matters do not negate the need to firstly comply with the sequential test.
10. Paragraph 163 of the Framework, and the relevant provision of the PPG, are both clear that if it is not possible for development to be located in areas with a lower risk of flooding then the exception test may be applied. It is therefore first necessary to pass the sequential test.
11. For the above reasons, it has not been demonstrated that the appeal site is a suitable location for the proposed development in terms of flood risk. The proposal therefore conflicts with Policy NR1 of the Borough Local Plan. As set out above, this policy aims to steer development away from areas at higher risk of flooding. Additionally, Policy NR1 only supports development in areas of high flood risk, where the submission of a FRA and sequential test demonstrates that it is appropriate and that there are no available and suitable alternative sites at lower risk of flooding. The proposal is also contrary to the Framework that has similar objectives for flooding.

Other Matters

12. The appellant indicates that the building is necessary for efficient agricultural operations at the site, and that the proposed position of the building would reduce impacts on the local highway network. However, I give these matters little weight. This is because there is a lack of substantive evidence to demonstrate what other locations have been considered, including areas of lower flood risk, and whether these alternative positions could secure similar benefits.

¹ Paragraph: 046 Reference ID: 7-046-20140306

Conclusion

13. For the reasons outlined above and having regard to the development plan as a whole, and all other material considerations, the appeal is dismissed.

Lewis Condé

INSPECTOR