



Appeal Decision

Site visit made on 23 February 2023

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30th March 2023

Appeal Ref: APP/T0355/D/22/3305674

Amber Rise, Bray Road, Maidenhead SL6 1UF

- 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 V Jain against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/01278, dated 11 May 2022, was refused by notice dated 13 July 2022.
 - The development proposed is described as a garage conversion with first-floor side extension and first floor front extension by replacement of existing front dormer to apex, plus internal alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that the Planning Officer Report assesses the proposed development as acceptable in terms of its design and effect on surrounding properties which is consistent with the policies of the development plan. I have no reason to disagree with this assessment, with my focus of this appeal limited to the outstanding issue which is flood risk.

Main Issue

3. Taking the above into account, the main issue is whether the site would be suitable for the proposed residential extension, having regard to its risk from flooding.

Reasons

4. When assessing development within areas of flood risk, Policy NR1 of the Windsor and Maidenhead Borough Local Plan (LP) seeks that a proposal for development will be expected to be constructed with adequate flood resilience and resistance measures suitable for the lifetime of the development, in line with the National Planning Practice Guidance (NPPG) and advice contained in the Council's Strategic Flood Risk Assessment. The policy requires that an appropriate FRA is carried out and it has been demonstrated that the development is designed to ensure that flood risk from all sources is acceptable in planning terms.
5. Additionally, Paragraph 168 of the National Planning Policy Framework (The Framework) provides that small developments including householder developments, should not be subject to sequential or exception tests, but should still meet the requirements for site-specific flood risk assessments (FRA) set out in footnote 55. I agree that the submission of a FRA that is

proportionate to the nature of the scheme in line with the previously specified policies is the most appropriate approach to understanding the flood risk to the appeal site as a result of the proposal.

6. The appeal property is located within a Flood Zone 3 where this classification as defined by the NPPG as being a 'high probability' area for flooding.¹ The reason for refusal and the officer report states that a FRA was not submitted with the application and there was therefore no ability to make a judgement as to the compliance with the Local Plan and Framework policies. In their Statement of Case (SoC), the appellant states that at no point in the application process was a FRA required or requested. According to the appellant, a FRA is readily available and could have been provided to the Council if they had requested it. As part of this appeal, the appellant was contacted² by email to request the FRA, however no response was received. The Council have also confirmed via reply email³ that no FRA was received as part of this application.
7. As detailed above, the FRA is a necessary document to gain an in principle understanding of whether the development would be compliant with the Framework and the Local Plan Policy NR1. I acknowledge the appellant's comments in their SoC that all other elements are acceptable, however the policies of the Local Plan require to be considered as a whole, with consideration for any other material considerations. Given that there are no material considerations to consider, when considered against the policies of the development plan as a whole, the appeal fails on procedural grounds due to the lack of submission of an FRA.
8. In conclusion of this matter, and based on the information before me, it has not been demonstrated by the appellant that the principle of the proposed residential extension is suitable, having regard to its risk from flooding. The scheme would therefore without prejudice, fail on procedural grounds and not be in accordance with Policy NR1 of the Local Plan or the Framework as described previously.

Conclusion

9. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be dismissed.

J Somers
INSPECTOR

¹ Paragraph: 078 Reference ID: 7-078-20220825, Revision date: 25/08/2022

² Email from Planning Inspectorate to Appellant, cc to Council, Dated 14 March 2023

³ Email from the Council to the Planning Inspectorate, Dated 15 March 2023