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# Appeal Decision

Site visit made on 6 June 2023

**by N Praine BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 June 2023**

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**Appeal Ref: APP/T0355/W/22/3313187**

**Maynard Court, Clarence Road, Windsor SL4 5BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Haz Sran against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
  - The application Ref 22/01095 dated 6 May 2022, was refused by notice dated 4 July 2022.
  - The development proposed is for prior approval for construction of one additional storey to building to provide x4 additional dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development is taken from the decision notice as it succinctly and accurately describes the proposal.
3. The reasons for refusal as set out within the decision notice, refer to Class AA under Part 20 of Schedule 2 of the GPDO. The Council has confirmed the intended reference is Class A under Part 20 of Schedule 2 of the GPDO and not AA. The appellant has also highlighted these typographical errors as part of their statement.
4. It is evident from the reasons for refusal and the officer delegated report that the Council made its decision against the correct regulations and therefore the typographical errors do not affect my determination of the appeal.

## Background

5. The provisions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the local planning authority to assess the proposed development on the basis of criteria which include those listed under paragraphs A.1 and A.2.
6. Paragraph B.(15) of Part 20, Class A of the 2015 Order requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of this appeal has been made on the same basis.

## **Main Issues**

7. The main issues are whether or not the:

- Impact of the proposal upon flood risk would be acceptable;
- Impact of the proposal upon the amenities of occupiers of the existing building would be acceptable having particular regard to outdoor amenity space; and
- Proposal would meet the conditions, limitations or restrictions under Schedule 2, Part 20, Class A, Paragraph A.1(d) of the GPDO.

## **Reasons**

### *Flood Risk*

8. The appeal site is located within Flood Zone 2. The Council state that while a Flood Risk Assessment (FRA) was submitted, a sequential test was also required, but not provided.
9. The FRA found that the proposed development would be safe and does not increase the risk of flooding either at the site or within the surroundings. The Council have not objected to the content of the FRA in this regard.
10. However, paragraph 162 of the National Planning Policy Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
11. Development should therefore be directed away from areas at highest risk and the Planning Practice Guidance (the PPG) section on flood risk and coastal change, states, at paragraph 23, that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.
12. While the appellant draws my attention to previous sequential tests, within an area of greater flood risk, to the rear of Maynard Court, these were undertaken some time ago for different development. I am also aware that the Council has updated its Housing and Economic Land Availability Assessment since the last sequential test was accepted at this site. For these reasons I ascribe limited weight to the previous sequential tests.
13. The purpose of the sequential test is to demonstrate that there are no other suitably alternative sites at lower risk of flooding. In the absence of such a test, the flooding risks in relation to the building have not been satisfactorily addressed as part of the development proposal.

### *Outdoor Amenity Space*

14. The existing flats benefit from outdoor terrace areas on the ground floor and balconies to the first floor. These face onto Clarence Road with a further area of grassed outdoor amenity space sited to the rear.
15. The proposed parking spaces and store areas would be sited in this rear amenity area and this would reduce its size. However, a considerable amount of outdoor space would be retained, and this would complement the existing

terrace / balcony areas even when considering the additional pressure from the modest quantum of proposed development.

16. The development proposal would therefore have an acceptable impact upon the amenities of occupiers of the existing building having particular regard to outdoor amenity space.

*Whether or not Permitted Development*

17. Paragraph A.1 of Part 20 of the GPDO sets out various requirements that, if not met, result in development not being permitted by Class A. The Council refused to grant prior approval based, in part, on the proposal's alleged failures to comply with paragraph A.1(d). This refers to the additional storey being constructed on the principal part of the building.
18. The 'principal part' is defined in the GPDO as the main part of the building excluding any front, side or rear extension of a lower height, whether this forms part of the original building or a subsequent addition.
19. However, Schedule 2, Part 20, Class A, A.(c) allows for works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases.
20. While the staircase would be at a lower height and to the rear of the site, the construction of appropriate and safe access via an external staircase is clearly an intention of the GPDO. The proposed staircase would follow the design of the existing staircase and there is no evidence before me to suggest it would not be appropriate or that it would not be safe.
21. The development proposal would therefore meet the conditions, limitations or restrictions under Schedule 2, Part 20, Class A, Paragraph A.1(d) of the GPDO.

**Conclusion**

22. While I have found for the appellant in some regards, for the reasons given above, I conclude that the appeal should be dismissed.

*N Praine*

INSPECTOR