



Appeal Decision

Site visit made on 16 December 2024

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/T0355/W/24/3346611

Maynard Court, Clarence Road, Windsor and Maidenhead, Windsor SL4 5BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
 - The appeal is made by Mr Haz Sran against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 24/00346/PT20A.
 - The development proposed is described as 'The proposal is to extend at third floor level to provide four additional flats: 2x studios and 2x 1bedroom units, taking advantage of the central government permitted development rights which encourages better use of urban land.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development on the Application Form contains wording that are not acts of development. I have omitted wording that is unnecessary to describe the development in my decision above. I am satisfied that no party will be prejudiced by my use of it.
3. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. Comments were sought from the main parties as to the relevance of the revised Framework to the appeal and I have taken the comments received from the main parties into account in my consideration of the appeal.
4. The appellant submitted a document entitled 'Confirmation of Safe Access Arrangements' (dated January 2025) (CSAA) to the appeal. This document does not materially evolve the scheme and the Council is aware of it. I am therefore content to accept its submission for information purposes and am satisfied that no party with a potential interest in the outcome of this appeal is prejudiced by me doing so.
5. Paragraph B (15) of Part 20, Class A of the GPDO 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 Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.
6. Paragraph B (6) Procedure for applications for prior approval under Part 20 of the GPDO states that where an application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must

consult the Environment Agency (the EA) where the development is— (a) in an area within Flood Zone 2 or Flood Zone 3.

7. As the Council had not undertaken consultation with the EA as part of the application process, the EA was consulted during the appeal. However, no site-specific response was forthcoming other than the EA's Flood Risk Standing Advice.

Background and Main Issue

8. Schedule 2, Part 20, Class A of the GPDO permits development consisting of the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a building which is a purpose-built, detached block of flats, subject to limitations and conditions.
9. The Council concluded that the appeal scheme meets the criteria of paragraphs A and A.1, Schedule 2, Part 20, Class A of the GPDO such that it constitutes development permitted under Class A. I have no reason to find otherwise.
10. Nevertheless, development under Class A is only permitted subject to the conditions in paragraph A.2 including prior approval of the local planning authority as to the matters listed in paragraph A.2 (1). The Council is content that the development is acceptable in respect of all the matters listed in A.2 (1), except for flooding risks in relation to the building.
11. Therefore, the main issue is whether prior approval should be granted having regard to flooding risks in relation to the building.

Reasons

12. The appeal site relates to a purpose built detached three storey block of 10 flats known as Maynard Court. The site includes a communal garden, garages and car parking area at the rear for the flats. The surrounding area is predominantly residential.
13. The proposal would create an additional fourth floor to the topmost floor of Maynard Court and provide four additional flats. Five additional car parking spaces would be provided within the existing parking area in the rear, as well as a new cycle store and bin enclosure.
14. The appeal site is in Flood Zone 2 which is a flood zone with medium probability of flooding¹. The appeal scheme would fall within the 'more vulnerable' classification under Annex 3 of the Framework due to the proposed residential accommodation. A site-specific Flood Risk Assessment² (the FRA) and a Sequential Test Addendum³ were submitted with the application.
15. The Council has referred to paragraph B of Part 20 of the GPDO and the Framework in defending its requirement for a sequential test. However, prior approvals are, by definition, not applications for planning permission. Planning Practice Guidance (PPG) makes clear that the statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. The GPDO is clear in only requiring a site-specific flood risk

¹ Paragraph: 078 Reference ID: 7-078-20220825

² Maynard Court, Windsor, Flood Risk Assessment, Stantec, Project Ref: 332511014/100, March 2022.

³ Maynard Court, Windsor, Sequential Test (Addendum), Hawtree Developments Ltd, January 2024.

assessment (FRA) to be provided with an application for prior approval located in Flood Zone 2 or 3. On this basis, I am satisfied that a sequential test is not required in this case.

16. Notwithstanding the above, paragraph 181 of the Framework indicates that development should only be allowed in areas at risk of flooding where in the light of a site-specific flood risk assessment, it can be demonstrated that safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
17. PPG advises that proposals that are likely to increase the number of people living or working in areas of flood risk require particularly careful consideration, as they could increase the scale of any evacuation required. It goes on to say that safety considerations can affect the overall design or acceptability of the development and that access considerations should include the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood (0.1% annual probability of flooding with allowance for climate change). In addition, PPG states that access and escape routes need to be designed to be functional for changing circumstances over the lifetime of the development.
18. The submitted FRA and CSAA show that the site and surrounding area is fully outside the design 1 in 100 (1%) annual probability (AP) +35% climate change allowance floodplain. Therefore, continuous safe and dry access would be available within and around the appeal site.
19. In an extreme 1 in 1000 (0.1%) AP flood event, with or without an allowance for climate change, flood depths of up to approximately 450 millimetres are anticipated in the adjacent public footpath on Clarence Road. There would be a distance of approximately 180 metres to land outside the 1 in 1000 floodplain.
20. The CSAA indicates that the River Thames is a slow responding catchment and the outputs from the Environment Agency model confirm that there would be a significant period of advance warning before the flood levels rise to a 1 in 1000 AP event.
21. Notwithstanding the advance warning that would be provided, PPG indicates that the practicality of safe evacuation will depend on a number of factors including not only the type of flood risk present, and the extent to which advance warning can be given in a flood event but also the number of people that would require evacuation and the adequacy of evacuation routes and identified places that people from evacuated places are taken to. In addition, PPG requires residual flood risks to be addressed such as the risks associated with people not receiving warnings or acting upon them and the flood hazard to which people would be exposed on access or escape routes after they have been raised.
22. A site evacuation plan has not been provided so it is unclear where the access and escape routes would be and where they would lead to. As the access and escape routes have not been clearly defined, hazards to which people would be exposed to during evacuation have not been identified. It follows that an effective evacuation plan and mitigation or management strategy cannot be formulated in the absence clearly defined safe access and escape routes. Furthermore, the CSAA indicates that residents would be required to walk a significant distance before they are outside the floodplain, which would be more difficult for future

residents of the proposed development with more limited mobility. As a result, the lack of a site evacuation plan, including measures to manage the residual risks associated with an extreme flood event at the site mean that the development would therefore not be safe for its lifetime.

23. The proposal has not demonstrated that safe access and escape routes are included as part of an emergency plan. Consequently, the proposal would have an unacceptable effect on flood risk and the safety of future occupants.
24. In conclusion on this matter, the proposal does not comply with condition A.2.1(d) of Schedule 2, Part 20, Class A of the GPDO.

Conclusion

25. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR