

## Introduction

Solve Planning has been asked to provide a note in support of the above applications which seek planning and listed building consent for the following:

*Part change of use of the ground floor from A2 (financial and professional services) to residential, part single, part two storey side extension, single storey rear extension, alterations to fenestration and external alterations following demolition of the existing single storey and rear elements.*

The Council has suggested that the additional bedrooms proposed as part of this application in each apartment (from two to three bedrooms) will increase the number of people at risk in the event of flooding contrary to paragraph 167 of the NPPF, Local Plan Policy F1 and emerging Policy NR1. Therefore, it should be refused.

This note sets out why a refusal on these grounds would not be justified.

Before considering the point in detail, I am struck by the potential consequences of this approach when considering applications to extend residential accommodation in such areas.

It would have some serious implications for residential dwellings if applied throughout the Borough. For example, it would seem to suggest that any dwelling within a Flood Zone should not be allowed to extend where it would create an additional bedroom, thereby increasing the likelihood of further people being accommodated in an existing dwelling. This would prevent a family from seeking an additional bedroom to meet changing needs, effectively ruling this out as an option, even if no other planning harm arises. It also runs contrary to the approach the Council has worked to for many years through the wording of Policy F1 and the Interpretation of Policy F1 SPD adopted in 2004.

This is a level of planning control which I do not believe is provided for in national or local policy. It is certainly not the approach advocated in the Government's national Planning Policy Guidance (PPG).

Such development should be considered minor development as defined in PPG (ref: Paragraph: 046 Reference ID: 7-046-20140306) falling into the category of householder development which should then be assessed in the context of the EA Standing Advice.

PPG identifies the potential flood issues raised by minor developments and these relate specifically to external impact on flooding and not the number of people within a household.

This is confirmed in the Flood Risk Statement prepared by Water Environment submitted in support of the application. This notes that the footprint of the scheme is unchanged from the previously approved and extant permission 17/02460.

The development will therefore have no additional impact on flooding in the wider area.

As noted in the Statement, the scheme has been designed to meet the standing EA advice for Vulnerable, minor development.

If the Council is approaching this in terms of the issues raised by the change of use, then this too is covered in PPG (Paragraph: 048 Reference ID: 7-048-20140306). This notes a change of use may involve an increase in flood risk if the vulnerability classification is changed. The vulnerability is

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unchanged here as the property already contains two flats and it is only the extent of floor area occupied by the residential use which is changing.

PPG here is again only referring to mitigation measures and not the number of people who may be living in an individual household.

For these reasons alone I do not consider that the application should be refused on the issue of the additional bedrooms to existing residential accommodation. It is clear that the applicant has followed the necessary steps identified in PPG.

The Council seems to be treating this application as if it were creating two new dwellings which would take it out of the scope of minor development and would require the application of the Sequential and Exception Tests. Without prejudice to our firm view that this is fundamentally incorrect this is considered further in the following sections.

### Policy Background

Policy F1 is the relevant policy in the Adopted Local Plan. The Adopted Local Plan though is substantially out of date. The emerging Local Plan, however, has concluded its Main Modifications consultation and the Council is targeting adoption of the Plan before the end of 2021. In my view therefore, very little weight can be attached to either F1 or the associated SPD.

Policy NR1 also has the benefit of being informed by the NPPF, albeit this was also updated in July 2021. I also note that both the policy and the supporting text make reference, at a number of points to PPG, notably at NR1 (7) in the Policy itself and para 12.2.14 of the supporting text, confirming the Exception Test should only be applied where relevant to do so. It then notes that further guidance is available in the PPG. This endorses the conclusions set out above.

The Officers make reference to para 167 of the NPPF. This requires that applications should be supported by a site specific FRA and Sequential and Exception Tests (*as applicable*) and only allowed where it can be demonstrated that a range of criteria are met.

The applicant has provided a suitable FRA and followed the necessary standing advice on the proposed mitigation. It is not necessary to go beyond this.

NR1 naturally follows a similar approach to the NPPF and PPG.

The relevant policy does not rule out additional accommodation or an increase in bedrooms. Rather it requires that applications for such development apply the Sequential and Exception Tests where appropriate.

Putting to one side the potential conflict with PPG that the Sequential Test is not required for minor development this is considered below.

## Sequential Test

It has been accepted by the Council and established in a number of local appeal precedents that the Sequential Test is readily passed in a situation such as this where existing accommodation is to be extended. Clearly alternative locations are not an option in such circumstances and any conclusion to the contrary would be irrational.

On this basis the application meets the requirements of NR1 in terms of the Sequential Test.

## Exception Test

As noted, NR1 (7) acknowledges that this not required in all situations and those schemes (such as that the subject of the application) do not need to apply this. Through complying with EA Standing Advice as set out in the Flood Risk Statement, there will be no increase in flood risk and therefore the need to show wider sustainability benefits is not triggered.

Without prejudice to this, I would highlight that there are wider sustainability benefits from the scheme including:

- ❑ Making best use of the building (as described in the Design and Access Statement) in accordance with the NPPF.
- ❑ Providing three bedroom accommodation in accordance with the Council's emerging policy HO2. The Council's Post Hearing Note (July 2021) acknowledges there will be a significant under provision of 3 bedroom dwellings and significant over provision of 2 bed dwellings. This means the Council will fail to meet its identified housing need, even following the adoption of the Local Plan.

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The Flood Risk Statement makes it clear that the development will be safe for its lifetime and does not increase the risk of flooding elsewhere. Therefore, although not required to do so, the application passes the Exception Test as well as the Sequential Test.

## Conclusions

For the reasons set out, I consider the application meets the requirements of the NPPF, PPG and Policy NR1 in terms of flooding. The simple addition of an additional bedroom should not be the basis for a refusal. National and local policy sets out procedures to be followed to assess the risk of harm. The approach recognises that the assessment or testing process must be proportionate to the nature of the proposals.

Policy NR1 (5) states that development should not (inter alia) materially increase the number of people, property and infrastructure at risk of flooding. This note and the Flood Risk Statement explain why there will not be an increase in the number or properties or infrastructure at risk.

The reference to people at risk is more relevant where new dwellings are proposed which is not the case here. In those situations, new households are being introduced where they did not exist

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previously. Assessing the flood risk in those instances needs to take into account the risk to people property and infrastructure as a whole. This is why such schemes are required to undertake the Sequential and Exceptions Tests before one can conclude whether the impact is acceptable in flooding terms.

It is disproportionate to seek to apply the same process in situations such as this where the change is in the possible size of a household and the way it might occupy a single dwelling rather than introducing a new and distinct form of risk or impact.

Kevin Scott BA (hons, Dip TP, MRTPI)

Managing Director, Solve Planning Limited

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