

Subject: FW: APP/21/00320

Dear Mr Wallace

I refer to our telephone conversation today and please again accept my apologies for the delay in getting back to you, due to reasons I explained.

As you are aware the Environment Agency has raised an objection to the proposal for the following reason:

“The submitted FRA (FLOOD_RISK_ASSESSMENT-1493782) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not adequately assess the flood risks posed for the lifetime of the development. The FRA will need to comply with the requirements for site-specific flood risk assessments that adequately assesses the flood risks posed for the lifetime of the development.

In particular, the FRA fails to:

- ☐ provide details of finished floor levels (FFL's) compared to 1 in 200 year return period plus climate change tidal flood levels for the lifetime of the development
- ☐ take the impacts of climate change into account:
 - o There is no assessment of the impact of climate change using appropriate climate change allowances for a 1 in 200 year return period plus climate change for the lifetime of the development
 - o Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development resilient to the flood levels for a 1 in 200 year return period plus climate change event.

Consequently the development proposes inadequate:

- o Raised finished floor levels
 - o Resistance and resilience measures
 - o Safe access and egress routes
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- ☐ consider how a range of flooding events (including extreme events) will affect people and property
 - ☐ consider how people will be kept safe from the identified flood hazards
 - ☐ consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including a 1 in 200 year return period plus climate change event.”

The proposal is contrary to Policy CS15 of the Havant Borough Local Plan Core Strategy and national advice.

Notwithstanding, and as discussed the Local Planning Authority has had to undertake a sequential test for the proposal, which is as follows.

The site is located within Flood Zones 2 and 3, as identified on the Environment Agency (EA) flood zone map with a probability of having between a 1 in 200 annual probability of sea flooding. An additional dwelling on the site is classified as a 'More Vulnerable Use' by the EA. Paragraph 162 of the National Planning Policy Framework requires that Local Planning Authorities steer new development to areas with the lowest probability of flooding (ie Flood Zone 1) and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The aim of the Sequential Test is to steer new development to the areas with the lowest probability of flooding. The Planning Practice Guidance advises that, in applying the Sequential Test, the aim is to steer new development to Flood Zone 1, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1, should reasonably available sites in Flood Zones 2 and 3 be considered.

The Planning Practice Guidance states that in the first place it is the Local Planning Authorities responsibility to consider if the sequential test has been satisfied, informed by evidence provided by the developer. No evidence has been submitted that an appropriate search, with regard to the availability of other suitable sites across the Borough, has been undertaken. As such it is considered that a robust search for reasonably available sites in Flood Zones 1 has not been undertaken. The proposed development therefore immediately fails to accord with the Sequential Test required by the Framework and the Planning Practice Guidance.

Given the above, it is concluded that the proposal fails to accord with the Sequential Test in relation to development in areas at risk of flooding. As such the development fails to accord with Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 and the Government advice.

Notwithstanding and as previous advised, Havant's Design Guide Supplementary Planning Document requires a rear garden of 10m, which would not be achieved with the host dwelling or the proposal, which indicates an overdevelopment of the site. There are also concerns about noise and disturbance to neighbours, by this intensification of the site.

We also discussed the possibility of the use of the garage as an annexe for your son and his wife as possible carers in the future, albeit I appreciate the points you made on this suggestion.

The conversion of existing outbuildings to provide ancillary residential accommodation does not necessarily require planning permission but is a complex area of planning legislation and case law.

Section 55 (2)(d) of the Town and Country Planning Act 1990 allows for the use of any building within the curtilage of a dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse provided it does not result in the creation of a separate planning unit. In this context the interpretation of "incidental to the enjoyment of the dwellinghouse" can include the creation of an annexe provided it is occupied by a family member and has a strong functional link with the main dwelling.

The garage could include some primary living accommodation i.e. a bathroom and living area, which would not require planning permission provided:

- it is occupied by a family member on an ancillary basis only;
- a second planning unit is not created (ie a separate dwelling);
- there is no sub-division of the garden, or residential curtilage i.e. there is no demarcation of the garden which must remain shared and available for all occupiers.

I must also advise that this information is based on the existing garage being capable of conversion. Should it become necessary to demolish, in full or in-part, and re-build, then the act of re-constructing a garage for primary living accommodation fails Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and would require planning permission.

However, any minor associated external works, such as re-configuring window and door arrangements is acceptable and would not require planning permission. But if it is necessary to enlarge the garage, or increase the height of the roof, then that would also require planning permission.

Whether the conversion of an existing garage to an annexe requires planning permission or not, is a complex matter hinging on many factors but particularly how the space is used by whom, and the linkage with the occupiers of the main house. If you decide to go down this route, it would be advisable to seek a formal determination in the first instance from the Local Planning Authority and apply for a Lawful Development Certificate (LDC). The relevant form can be found on our website at the link below:

https://ecab.planningportal.co.uk/uploads/appPDF/X1735Form015_england_en.pdf

The current planning fee for a LDC is £103. Please also note that the onus would be on yourself as applicant to provide sufficient information to demonstrate that the conversion works and subsequent occupation on an ancillary basis does not require permission and is lawful.

As this is not a straight forward matter you may wish to contact a Planning Consultant, who has experience in dealing with such applications, who could possibly act on your behalf.

If you have any queries regarding our conversation or the above, please email me and I will arrange to ring you back.

Notwithstanding, would you please advise if you intend to withdraw the application or you wish it to be determined. As previously advised the recommendation would be to refuse.

A reply within the next 14 days would be appreciated.

Kind regards

Lesley Wells