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Environment Agency

Andrew Dillon
London Borough of Barnet
Planning Services
Barnet House 1255 High Road
London
Barnet
N20 0EJ

Our ref: NE/2024/137660/01
Your ref: 24/4556/FUL

Date: 19 December 2024

Dear Andrew,

Land at Watling Avenue Car Park, Burnt Oak Library and 41 Barnfield Road, HA8 0AY.

Demolition of the existing buildings and redevelopment of the Watling Avenue Car Park site including the erection of four buildings (6-13 storeys) comprising no.344 residential units (Class C3) with roof terraces and external and internal amenity space, a new public park, 85 sqm of café (Class E) floorspace, 64sqm of co-working space (Class E), provision of 45 town centre car parking spaces and 10 blue badge spaces for future residents and improved access. Demolition of the existing Library building and erection of a building (4 storeys) to provide 348sqm commercial (Class E) floorspace at ground floor and no.15 residential units (Class C3) on upper levels and provision of one blue badge parking space. Demolition of the buildings at 41 Barnfield Road and erection of a building (3 storeys) providing 1,230sqm floorspace for a new library, Council employment services and nursery (Use Class F1 and E), external amenity space and provision of one blue badge parking space. Associated plant, access, refuse and recycling, cycle parking, amenity spaces, landscaping, play space and public realm works are also included.

Thank you for consulting us on the above planning application on 26 November 2024. As part of this consultation we have reviewed the documents submitted, including, but not limited to:

- Flood Risk Assessment, prepared by Campbell Reith, and dated November 2024 (ref: AV-CRC-XX-XX-TRP-C-000002-F01, revision P04).
- Site-specific Sequential and Exceptions Test, prepared by Campbell Reith, and dated November 2024 (ref: V-CRC-ZZ-XX-TRP-C-000001-P3_SeqTest.doc, revision P03).
- Technical Note: Flood Zone 3 Review, prepared by Campbell Reith, and dated 23 September 2024 (ref: WAV-CRC-XX-XX-TRP-C-000005-P2_Technical Note Flood Zone 3 Review.docx, revision P02).

Environment Agency Position

We were initially involved in pre-application for site 1 (Land at Watling Avenue Car Park) in early 2024. We had our first meeting in January 2024, and the second in June 2024. Through both meetings we expressed serious concerns and how we

believed that development was not appropriate for the site. We did not feel that that our concerns were being properly addressed, and therefore we chose to refuse any further pre-application.

Despite now receiving updated information and evolved proposals since our comments provided at pre-application, we still find multiple shortcomings in the justification rationale and supporting documentation.

As a result, **we object** to the proposed development in principle **[1]** due to the proposed development being incompatible with the Flood Zone, and due to the absence of an acceptable Flood Risk Assessment (FRA) **[2]**. We recommend that planning permission is refused on this basis.

Due to our objection in principle and the numerous flood hazards resulting in the site potentially remaining unsafe despite the proposed flood mitigation measures, we are unlikely to remove our objections.

Objection [1] – Proposed development incompatible with Flood Zone
NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3b (FZ3b) functional floodplain, which is land defined by the PPG and your Strategic Flood Risk Assessment as having a high probability of flooding.

The development is classed as more vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

We understand from previous communications and references made in the supplied documentation that there have been talks and pre-application agreements between the applicant and the Lead Local Flood Authority (LLFA) to change or re-classify the functional floodplain extents (FZ3b). The FRA and Technical Note: Flood Zone 3 Review shows redrawn FZ3b outlines, however to our knowledge the process of re-classifying the existing FZ3b to FZ3a has not yet been completed by the Local Planning Authority (LPA). As such we consider the proposals to still be in FZ3b – functional floodplain and therefore to be unacceptable as shown in Table 2 of the Planning Practice Guidance (PPG).

Furthermore, Section 3.11.1 of the West London SFRA describes how the responsibility of Functional Floodplain designation falls to the Local Authority so that it "*allows for the incorporation of local circumstances and must be agreed with the EA and the boroughs' LLFAs*". I would like to highlight that we have not seen any proposals from the LPA thus far to reclassify this extent of FZ3b, nor would we accept these proposals.

This is in line with Policy ECC02A of Barnet's Local Plan.

Overcoming our objection
The applicant can overcome our objection by redesigning the layout so that the

proposed development is located outside of FZ3b. If the layout is not able to be changed, then there is no resolution to this objection whilst the site is still classified as functional floodplain.

Objection [2] – Inadequate FRA
The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change PPG and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails due to the following reasons.

Sequential Test
Regardless of the re-classification and re-alignment of the outline of Flood Zone 3b discussed above in Objection [1], a large proportion of the site remains within the functional floodplain (FZ3b), and this is acknowledged by the Sequential Test. It's extremely disappointing to see alternative sites in FZ3a be rejected on flood risk grounds despite their flood risk classification being lower than this current site. It's also disappointing to see alternative sites of lower flood risk being rejected on the basis of walking distance to the library. This indicates that the matters of flood risk and safety are not highly weighted in decision making in comparison with other matters.

While we disagree with the conclusion of the Sequential Test, we understand that the decision on this matter lies with the LPA.

Flood depths and velocities
The FRA supports the proposals by claiming that the proposed scenario will not increase flood risk elsewhere and will reduce flood depths on site. However, figure 7.6 within the FRA, depicting flood numerical model iteration 9, shows increased flood depths throughout the site. Approximately half the site is shown to experience increased flood depths with the increase ranging from 0.1m to more than 0.25m, in comparison to current scenario. There are small areas of decreased flood depths shown, however, the wording of the FRA implies reduction and no increase in flood depths.

The expected depths of flooding for a design flood event of 1% probability Climate change allowances are approximately 0.9m. Despite this, the FRA fails to consider the hazards of such deep potential inundation. This is in spite of our requests to include this at our last pre-application meeting with the applicant.

Furthermore, the model flood depths and velocities are likely to pose danger to all users. This has also not been considered in the FRA and will also likely have implications on the Exception Test results, which are required to show the site will be safe.

Floodplain Compensation
The FRA admits it is not possible to offer Level-for level flood compensation - a requirement outlined and otherwise acknowledged in the FRA in reference to the PPG, West London's SFRA and Barnet's Level 2 SFRA.

The entire scheme depends on a proposal where all buildings rely on voids underneath for minimising the obstructing of the flood flows. This is also in spite of section 7.4.2 of the FRA admitting that non-floodable building cores (lift shafts) will obstruct flood water flows. According to the FRA these voids and stilts are not a flood volume compensation scheme and are instead proposed as a solution to allow flood volumes over the site. As such we would consider this a flood volume compensation scheme in comparison to non-voided standard construction solution.

As mentioned several times within our previous discussions with the applicant, within the Hertfordshire and North London Area, the use of voids or stilts/columns to create space below buildings as a means of compensating for any loss in flood storage is not acceptable. This is because such initiatives do not allow water to freely flow through them, can become blocked and get silted up over time, offer limited storage capacity, and it is very difficult to stop them being filled-in or used for storage at any point within the development's future. The use of stilts/columns or voids is not floodplain compensation, but rather mitigation of risk by design as it does not guarantee that the floodplain will be retained in the same way as a compensation scheme. This is in line with the Planning Practice Guidance for Flood Risk and Coastal Change. This is a nationally consistent approach. Although there are very few areas where local circumstances may mean that the use of voids, stilts/columns are accepted in exceptional circumstances, none of these fall within the Hertfordshire and North London Area. Please note that in calculating flood storage loss associated with a proposed development, it must be assumed that any void spaces are in-filled as they cannot be considered in flood storage compensation due to the reasons above.

Access and egress

Nearly all access and communication pathways, including walkways and access roads, are proposed on elevated platforms/ stilts due to the predicted flood depths that are likely not safe for people, vehicles and even emergency vehicles. We don't consider elevating effectively all outdoor space on stilts to be an agreeable solution, and in effect it highlights the inadequacy of the entire site for the proposed development.

Risks from floating vehicles

The car park proposed under the platform level, and effectively in one of the voided volumes under the building, has the potential to be flooded up to 0.9m - a depth where cars can potentially be swept away. The hazards and risks of this happening have not been considered in the FRA either as a risk to users or to the building and platform support structures that could be damaged in this scenario. Vehicles can start to float in flood depths of less than 60cm – less if it is fast-flowing. Buildings should be constructed in such a way that vehicles floating or displaced because of flooding, would not jeopardise its structural stability. In addition, it should be ensured that any sensitive infrastructure such as gas and water pipes or electrical cabling are located and designed to withstand the potential impacts of floating or displaced vehicles.

This is in line with Policy ECC02A Water Management Policy of Barnet's draft local

plan.

Overcoming our objection
To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection.

Advice to Local Planning Authority

Sequential Test
What is the sequential test, and does it apply to this application?
In accordance with the National Planning Policy Framework (paragraph 174), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories, or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test and:
    - the proposed development is consistent with the use for which the site was allocated; and
    - there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?
It is for you, as the local planning authority, to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of the planning practice guidance here.

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance here.

Insurance eligibility

New homes built in flood risk areas after 1 January 2009 are not covered by the Flood Re-insurance scheme and may not be eligible for home insurance. We advise contacting an insurance provider to discuss whether your development would qualify for insurance.

Flood Risk Management Scheme Funding eligibility

New properties and buildings converted to housings within areas of flood risk after 1 January 2012 will not be counted towards the outcome measures of any proposed future flood alleviation scheme. This is to avoid inappropriate development in flood risk areas. Further information can be found at https://www.gov.uk/government/publications/calculate-grant-in-aid-funding-flood-risk-management-authorities

Exception test

In accordance with the National Planning Policy Framework (paragraphs 178 and 179), the proposed development is appropriate provided that the site meets the requirements of the exception test. Our comments on the proposals relate to the part of the exception test that demonstrates the development is safe. The local planning authority must decide whether or not the proposal provides wider sustainability benefits to the community that outweigh flood risk.

The Town and Country Planning Consultation Direction 2024

If you are minded to approve this application for major development contrary to our flood risk objection, we request that you contact us to allow further discussion and/or representations from us in line with the The Town and Country Planning (Consultation) (England) Direction 2024 - GOV.UK (www.gov.uk).

This statutory instrument prevents you from issuing planning permission without first referring the application to the Secretary of State for Housing, Communities and Local Government (via the National Planning Casework Unit) to give them the opportunity to call-in the application for their own determination. This process must be followed unless we are able to withdraw our objection to you in writing. A failure to follow this statutory process could render any decision unlawful, and the resultant permission vulnerable to legal challenge.

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote

our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations.

In accordance with the planning practice guidance (determining a planning application, paragraph 038), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Should you have any queries regarding this response, please contact me.

Yours sincerely,

Elizabeth Clements
Sustainable Places Planning Advisor

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