

Matthew Briant  
Elmbridge Borough Council  
Development Control  
Civic Centre High Street  
Esher  
Surrey  
KT10 9SD

**Our ref:** WA/2016/122923/01-L01  
**Your ref:** 2016/2760  
**Date:** 13 October 2016

Dear Briant

### **Water activity centre with single storey boat house with rooms in the roof**

#### **Hurst Park Open Space, Sadlers Ride, West Molesey, Surrey**

Thank you for contacting us regarding the proposed development noted above. We have reviewed the information submitted with regards to our remit and have the following comments to make.

#### **Environment Agency position**

In accordance with the National Planning Policy Framework (NPPF) we **OBJECT** to the proposed development and recommend refusal of planning permission for the following three reasons:

1. Flood risk
2. Risk to nature conservation and fisheries
3. Inadequate buffer zone to the River Thames

Details on each of the objection points are set out below.

#### **Reason 01 – Flood risk**

The Andrew Duncan Activity Centre Flood Risk Assessment (FRA) submitted with this application does not comply with the requirements set out in paragraph 103 of the National Planning Policy Framework (NPPF). The submitted FRA does not clearly demonstrate that the proposed development will not increase flood risk. Therefore, the submitted FRA does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development.

In particular, the submitted FRA fails to demonstrate:

1. that a suitable assessment of climate change has been undertaken
2. the loss of flood plain storage within the 1% annual probability (1 in 100 year) flood extent with an appropriate allowance for climate change can be satisfactorily mitigated for.

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With regards to assessing climate change, for this type of development the 'Central allowance' needs to be used. On this occasion 15% of additional flow needs to be added to the 1% annual probability (1 in 100 year) of flooding. The calculation of climate change within the submitted FRA has not been calculated correctly and, therefore, the proposed development could displace floodwater and increase flooding elsewhere.

### **Overcoming our objection 01**

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase flood risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

Detailed flood modelling is available in this area. In our Thames flood detailed model (available from our Customers and Engagement team) we can provide the flood levels for the 1% annual probability and the 1% annual probability plus a 20% allowance for climate change flood extent for this area. Therefore, these could be used to help inform/calibrate the required level associated with your climate change assessment.

You will need show that any increase in built footprint within the 1% annual probability (1 in 100 year) with an appropriate allowance for climate change flood extent can be directly compensated for. This is necessary to prevent the new development reducing flood plain storage and displacing flood waters, thereby increasing flood risk elsewhere.

Level for level flood plain compensation is the preferred method of mitigation because voids, stilts or undercroft parking tend to become blocked over time by debris or domestic effects leading to a gradual loss of the proposed mitigation.

Level for level compensation is the matching of volumes lost to the flood plain, through increases in built footprint, with new flood plain volume by reducing ground levels. Please note for this to be achievable it requires land on the edge of the floodplain and above the 1% annual probability (1 in 100 year) flood level with an appropriate allowance for climate change to be available. A comparison of ground levels (topographical survey) with modelled flood plain levels will show land above the 1% annual probability (1 in 100 year) flood level with an appropriate allowance for climate change to be used as compensation.

If it is not possible to provide level for level flood plain compensation then other forms of mitigation may be considered if agreed with the Local Planning Authority (LPA). The FRA must demonstrate that level for level compensation has been considered, explain why it was not possible to provide it and detail how any associated risks from the chosen form of mitigation can be minimised.

If voids are proposed as an alternative form of mitigation these will need to be floodable, with the underside of the void above the 1% annual probability (1 in 100) flood level with an appropriate allowance for climate change. The LPA must also be satisfied that they can impose a condition to maintain the voids as designed and that an adequate maintenance plan is in place to ensure the voids remain open for the life time of the development. Any proposed voids should be clearly labelled and dimensioned on submitted drawings.

If the LPA are not satisfied that alternative mitigation measures are appropriate then the

applicant should revise their development proposals to ensure that there will be no increase in built footprint on this site.

## **Reason 02 - Risk to nature conservation and fisheries**

In accordance with paragraphs 109 and 118 of the National Planning Policy Framework (NPPF) we object to the proposed development as submitted because the assessment and mitigation of the risks to nature conservation and fisheries are inadequate.

Consequently, the proposed development may result in the loss or deterioration of habitats. We therefore recommend that the planning application is refused. We will maintain our objection until the applicant has supplied information to demonstrate that the risks posed by the development to nature conservation and fisheries can be satisfactorily addressed.

### **Further Explanation**

The application documents and plans do not provide enough information to clearly demonstrate that there will be no detrimental impact on the riparian, aquatic and semi-aquatic species and habitats currently found on the site, both during the construction phase and for the lifetime of the development. Further evidence and clarification is required including:

- please provide plans which give details of the distance between the top of the bank and the proposed new building. The Design & Access Statement (DAS) acknowledges that the proposed building being within 20 metres of bank top is a constraint on the development, but it is not addressed again in any of the documents;
- the DAS states that a planting strategy has been devised, but the details don't appear to have been included or mapped within the application documents. Please provide clarification on this matter;
- the DAS mentions a 5 metre pontoon and three mooring piles, but no further details or drawings are given detailed within the submitted information. What potential impacts and/or mitigation measures will be required as a result of this feature?
- please provide further information on the 'Riverbank Naturalisation Scheme' to ensure that an appropriate assessment on the impact on the existing habitats and the associated benefits which are alluded to in the application documents are clearly demonstrated.
- please provide justification for why the bank will be kept free of vegetation as noted in page 4 of the 'Botanical Survey and Ecological Appraisal'
- please provide further details in the 'Riverbank Naturalisation Scheme' document and drawings including:
  - the exact location where the works are proposed – bank location and how far into the river the works will extend
  - Current bank height, profile and material (extending 10 metres either side of the site)
  - clarification if the top of the bank is to be moved back to the tow path, and how erosion of the towpath will be prevented
  - Current river bed profile and materials

- Clarification on how far any new material will extend into the channel and provide confirmation if it will be necessary to be secured to prevent it being washed away. If so, please provide details on how this will be secured.
- please provide water level height marks on the drawings
- please confirm the specifications of the materials to be used. The current proposed gravel size appears to be very small and may not be suitable in this location
- provide clarification on how the scheme would be integrated with the adjacent bank to prevent localised bank erosion
- provide justification why “the entire section of removed bank will be edged with 250mm rock roll”
- details of the location and materials to be used for the ‘stepped bank’

Government policy on minimising impacts on biodiversity set out in the National Planning Policy Framework (NPPF) paragraph 118, requires local planning authorities to aim to conserve and enhance biodiversity when determining planning applications. We do not believe this has not been adequately demonstrated in the present application.

### **Overcoming our objection 02**

Updated documents are required to enable an assessment of the level of risk posed by the development. The documents should include the missing details mentioned above. The detailed design, construction, mitigation and compensation measures should be based on the results of the additional information gathered to ensure best practice design is used, and where possible, that there is a meaningful biodiversity gain.

### **Reason 03 - Inadequate buffer zone to the River Thames**

In accordance with paragraphs 109 and 118 of the National Planning Policy Framework (NPPF) we object to the proposed development as submitted because the proposed development does not provide an adequate buffer zone to the River Thames. Consequently, the proposed development may result in the loss or deterioration of habitats and assess to enable river maintenance works. We recommend that planning permission should be refused on this basis.

The NPPF, paragraph 109 recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Article 10 of the Habitats Directive stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats, and promote the expansion of biodiversity. River corridors are particularly effective in this way. Such networks and corridors may also help wildlife adapt to climate change.

### **Overcoming our objection 03**

It may be possible to overcome this objection if the development is moved back to provide at least an 8 metre-wide buffer zone measured from the bank top/wetland edge (defined as the point at which the bank meets the level of the surrounding land) alongside the Thames. The buffer zone will help to reduce the impact of increased disturbance from any new development, reduce shading, and should be free from all

built development including fencing, formal landscaping and lighting. To reduce light spill into the river corridor outside the buffer zone, all artificial lighting should be directional and focused with cowlings (for more information see Institute of Lighting Professionals (formerly the Institute of Lighting Engineers) "Guidance Notes for the Reduction of Obtrusive Light".

The buffer zone and river corridor should continue to form an essential part of green infrastructure.

Any scheme to provide a buffer zone will need to include a working methods statement detailing how the buffer zone will be protected during construction.

## **Advice to Applicant**

### Flood Data

The Environment Agency does not prepare or provide Flood Risk Assessments. However, our Customers and Engagement Team can provide any relevant flooding information that we have available. This information is provided in the form of flood map products. The product supplied depends on the type and size of the development being undertaken.

Please be aware that there may be a charge for this information. Please contact [WTenquiries@environment-agency.gov.uk](mailto:WTenquiries@environment-agency.gov.uk) or write in to:

Customers & Engagement  
Red Kite House  
Howbery Park  
Crowmarsh Gifford  
Oxon  
OX10 8BD

### Finished Floor Levels

We note that the submitted FRA indicates that the building will be floodable on the ground floor, however, we would normally recommend that finished floor levels for the proposed development are raised 300mm above 1% annual probability (1 in 100 year) with an appropriate allowance for climate change flood level. Where this is not practical we recommend incorporating flood resilience/resistance measures up to the design level. This is to reduce the risk of flooding to the proposed development.

Further information can be found in the document 'Improving the flood performance of new buildings' at: [http://www.planningportal.gov.uk/uploads/br/flood\\_performance.pdf](http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf)

Additional guidance can be found in the Environment Agency Publication 'Prepare your property for flooding', which can be found on our website at <http://www.environment-agency.gov.uk/homeandleisure/floods/31644.aspx>

### Environmental Permit

This development may require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated 'main rivers'. This was formerly called a

Flood Defence Consent. Some activities are also now excluded or exempt. **An environmental permit is in addition to and a separate process from obtaining planning permission.** Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

## **Final Comments**

Once again, thank you for contacting us. Our comments are based on our available records and the information as submitted. Please quote our reference number in any future correspondence.

If you are minded to grant planning permission contrary to our advice please contact us prior to doing so.

If you have any queries please contact me.

Yours sincerely

**Mr Oliver Rathmill**  
**Sustainable Places | Planning Advisor**

Direct dial 0208 4747 682

E-mail [planning-farnham@environment-agency.gov.uk](mailto:planning-farnham@environment-agency.gov.uk)