

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD  
PLANNING COMMITTEE**

**MAIDENHEAD DEVELOPMENT CONTROL PANEL**

6 June 2017

Item: 1

<b>Application No.:</b>	16/01292/FULL
<b>Location:</b>	Hedsor Cottage 11 Maidenhead Court Park Maidenhead SL6 8HN
<b>Proposal:</b>	Erection of detached dwelling following demolition of existing garage and annexe
<b>Applicant:</b>	Mrs Hock
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	/Maidenhead Riverside Ward

**If you have a question about this report, please contact:** Antonia Liu on 01628 796697 or at [antonia.liu@rbwm.gov.uk](mailto:antonia.liu@rbwm.gov.uk)

**1. SUMMARY**

- 1.1 The Local Planning Authority took the decision to grant planning permission for the erection of a detached dwelling following the demolition of the existing garage and annex and creation of a new vehicular access at Hedsor Cottage on 6 July 2016. A Judicial Review was undertaken and the application has been reverted back to Maidenhead Planning Panel for determination following a Consent Order, dated 7 March 2017, to quash the grant of planning permission as the Council failed to apply relevant paragraphs 101 – 103 of the NPPF in determining the planning application. The Consent Order is available on the Council's website.
- 1.2 The applicant has submitted a revised Sequential Assessment and Flood Risk Assessment for consideration. The proposal is considered to pass the Sequential Test and the application of the Exception Test is not considered necessary. However, the Flood Risk Assessment and addendum fails to demonstrate that safe access and egress from the proposal to an area wholly outside of the 1% Annual Exceedance Probability plus climate change flood extent can be achieved. At the time of writing, comments from the Environment Agency on the addendum are still pending and will be reported in an update.
- 1.3 The proposal is considered acceptable in terms of impact on character and appearance, impact on neighbours, and highway safety and parking.

**It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):**

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| 1. | The proposal fails to demonstrate that the development can provide appropriate safe access and egress for future occupants. The proposal is therefore contrary to paragraph 103 of the NPPF. |
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**2. REASON FOR PANEL DETERMINATION**

- At the request of Councillor Diment due to concerns over bulk, scale and positioning of the development.

**3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 This application comprises of a large plot containing a large two-storey detached dwelling, which is set further back into the plot than the adjacent houses, with a single-storey triple garage and adjoining outbuilding sited to the front of the main house. The site is situated within a residential area which is located in Flood Zone 2 and 3a. The boundary of Maidenhead Settlement cuts across the rear garden of the site, with Green Belt to the west.

#### 4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/00609/FULL	Part two part single storey rear extension with new front porch and associated alterations	Approved – 07.04.2014
14/03999/FULL	Erection of detached dwelling following demolition of existing garage and annexe and creation of new vehicular access	Refused – 11.03.2015
93/00857/FULL	Change of use of agricultural land to residential	Approved – 31.03.1993
93/00854/FULL	Detached single storey building to house swimming pool	Refused – 28.12.1993
92/00795/FULL	Single storey extension to garage to form garden and pool store	Approved – 01.04.1992
91/00869/FULL	Pitched tiled roof to existing garage	Approved – 31.03.1991
87/00874/FULL	Erection of two storey front extension	Approved – 10.11.1987

- 4.1 The proposal for a new detached dwelling following the subdivision of the existing plot and demolition of the existing garage and annex is the same as the previously refused scheme under 14/03999/FULL, which was refused on the grounds that it would lead to an unacceptable risk to people in the event of a flood.
- 4.2 This application was granted planning permission, on the basis that flood mitigation can be sufficiently provided and local knowledge is that there is not a flood issue in this area and the maps held by the Environment Agency are wrong having not been updated to reflect the Jubilee River effect. The application has been reverted back to the Council for determination following a Consent Order (7 March 2017) to quash the grant of planning permission as relevant paragraphs 101 – 103 of the NPPF were not correctly applied in determining the planning application. The application has to now be freshly considered.

#### 5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework Sections 6, 7 and 10.

##### Royal Borough Local Plan

- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

Within settlement area	Highways and Parking	Flood Risk	Trees
DG1, H10, H11	P4, T5	F1	N6

##### Supplementary planning documents

- 5.3 Supplementary planning documents adopted by the Council relevant to the proposal are:
- Sustainable Design and Construction
  - Planning for an Ageing Population

More information on these documents can be found at:  
[http://www.rbwm.gov.uk/web/pp\\_supplementary\\_planning.htm](http://www.rbwm.gov.uk/web/pp_supplementary_planning.htm)

##### Other Local Strategies or Publications

- 5.4 Other Strategies or publications relevant to the proposal are:
- RBWM Parking Strategy - view at:  
[http://www.rbwm.gov.uk/web\\_pp\\_supplementary\\_planning.htm](http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm)

## **6. EXPLANATION OF RECOMMENDATION**

6.1 The key issues for consideration are:

- i Principle of Development
- ii Flood Risk
- iii Character of the Area
- iv Impact on Neighbours and Future Occupiers
- v Highway Safety and Parking
- vi Other Material Considerations

### **Principle of Development**

6.2 The site is situated within an established residential area within Maidenhead. Development in such areas is acceptable in principle provided that the provisions of the NPPF and Local Plan policies can be satisfied.

### **Flood Risk**

6.3 According to flooding data provided by the Environment Agency and the Council's Strategic Flood Risk Assessment (SFRA), the application site is located within Flood Zone 2 (medium probability of flooding) and Flood Zone 3a (high probability of flooding). The proposed dwelling would be sited on the part of the site in Flood Zone 2, but surrounded by Flood Zone 3a

6.4 The EA has commented that the site falls within Flood Zone 3. Clarification has been requested, but in the absence of further explanation the proposal has been assessed in the context outlined in paragraph 6.3. Additionally, at the time of writing, comments from the EA on the FRA addendum have not yet been received. These will be reported in an update.

### Sequential Test

6.5 In accordance with paragraphs 101 to 102 of the NPPF the proposed residential development must successfully pass a flood risk sequential test in order to direct development to the lowest risk areas of flooding first, before land in the medium and high probability of flooding classifications. A revised Sequential Assessment has been submitted by the applicant which uses the most recent version of the Council's Strategic Housing Land Availability Assessment (SHLAA) (January 2014) to identifying potential housing sites within the Borough. Sites which are comparable in areas and potential yield have been identified based on Appendix D – Small Site Under 0.25ha of the SHLAA, which is considered to be acceptable. An analysis has also been undertaken determining whether these sites had a realistic prospect of being successful in securing new residential development and whether they would be reasonably available to the developer. Following this analysis, the sequential assessment concludes that there are no other sites within the Borough with a lower risk and of a similar size that are available for the proposal. As no alternative and available sites appropriate to the development were found the application is considered to pass the sequential test.

### Exception Test

6.6 Paragraph 102 of the NPPF states that if, following the application of the Sequential Test, it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. As the proposed dwelling would be located within Flood Zone 2 the submitted Flood Risk Assessment (FRA) states that the Exception Test is not required in accordance with Table 3 of the NPPG.

## Flood Risk Assessment

- 6.7 Paragraph 103 of the NPPF states Local Planning Authorities should only consider development appropriate in areas of risk of flooding where, informed by a site-specific flood risk assessment, it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk within the site unless there are overriding reasons to prefer a different location; development is appropriately flood resilient and resistant, including safe access and escape routes where required and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems. A FRA by AA Environmental Ltd dated December 2014, and FRA addendum dated October 2016 to be read in conjunction have been submitted to support the application.
- 6.8 It is acknowledged that the proposed dwelling is sited on within Flood Zone 2, which is the area of lowest flood risk within the site. The proposal is therefore considered to be acceptable in this respect.
- 6.9 In terms of resilience and resistance, the finished floor levels of the development are required to be set 300mm above the 1% annual probability flood level with an appropriate allowance for climate change. Specific guidance for the Thames Area by the EA states that a basic approach of applying climate change would be acceptable for a minor development with a more vulnerable flood risk classification in Flood Zone 2. The basic approach is to add an allowance to the 'design flood' peak levels to account for potential climate change impacts. For a more vulnerable development in Flood Zone 2 this is the central to higher central climate change allowance. Given the sensitive location it is considered that the use of higher central allowance is appropriate in this instance. The higher central allowance for the River Thames is 700mm. Therefore, when applied to the 1% Annual Exceedance Probability event with an appropriate allowance for climate change then the flood level is estimated to be 25.30m. The proposed finished floor level set at 25.85m AOD, as indicated in the revised FRA is therefore considered compliant. The revised FRA also outlines a number of measures have also been incorporated into the design of the building including raised electrical services and water resistant materials, which are considered acceptable. However, in accordance with FD2320/TR2 and the NPPG the submitted FRA fails to demonstrate that the development can provide appropriate safe access and egress for future occupants with a 'very low' hazard rating from the development to an area wholly outside of the 1% AEP plus allowance for climate change flood extent.
- 6.10 It is noted that a route to a 'dry island' has been identified which comprises of a residential area known as Maidenhead Court by following the road southwards for approximately 25m. However, by reason of its size and residential nature it is considered that the 'dry island' would be unable to adequately provide essential supplies and facilities i.e. food, drinking water, shelter and medical treatment to occupants throughout the duration of a prolonged flood event. Consequently it would be likely that emergency services would be called upon to move occupants, especially those less able. The NPPG states that the emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe. Due to the failure to provide a safe access and egress the proposal would therefore increase the number of people at risk from flooding, would result in an unacceptable risk to the health and safety of the occupants during a flood event, and would place an increased burden on the emergency services during a time of flood, contrary to paragraph 103 of the NPPF.
- 6.11 The applicant considers that the flood risk can be satisfactorily mitigated by the submitted Flood Evacuation Plan. The Council does not normally accept reliance on Flood Evacuation / Management Plans as there is no guarantee that people would / could heed warnings to vacate or be aware of the time duration of flooding at the time of any warning. Therefore, it is considered essential that a safe route of access and egress from the development to an area wholly outside the 1% Annual Exceedance Probability (AEP) plus allowance for climate change flood extent can be provided and maintained during flood events. The applicant has identified a number of recent cases where the Council has adopted Flood Evacuation / Management Plans to overcome flood risk however each application is considered on its own merits and it is considered that there are no specific circumstances or material considerations that would support sole reliance on a Flood Evacuation Plan.

- 6.12 It follows that as the proposal fails to demonstrate that flood risk can be safely managed during a 1 in 100 flood event then the proposal would not be safe when considering any additional residual risk, which the SFRA defines as a measure of outstanding flood risks and uncertainties that have not been explicitly quantified and/or accounted for.

### **Character of the Area**

- 6.13 Maidenhead Court Park is an attractive residential area which is characterised by detached dwellings set within relatively modest to large plots with landscaped frontages which gives a spacious, verdant appearance. In terms of the style of dwellings there is a mixture of bungalows, two storey dwellings to two and a half storey dwellings ranging from Edwardian style to later twentieth century suburban housing.
- 6.14 The left side of Maidenhead Court Park from No's 3 to 17 is sited approximately in line with one another with the exception of Hedsor Place and Redlands Cottage which are set significantly further back from the road. The new dwelling would be sited fronting Maidenhead Court Park to the front of Hedsor Place and in the gap between no. 9 and no. 13 Maidenhead Court Park, approximately in line with these two adjacent properties. While the proposal would result in a tandem development, due to its siting to the front it is considered that the new house would read as a continuation of the prevailing building line along this section of Maidenhead Court Park and therefore acceptable in this case. Following subdivision, the resultant plot for the existing house at Hedsor Place would still be large in size and comparable with plot within the locality. The plot for the proposed house would be smaller, but the house is not considered to be cramped being offset from the boundaries, with over 150sqm of amenity space to the rear and there would be sufficient space to accommodate soft landscaping along its frontage. If recommended for approval a landscaping scheme could be secured by condition to mitigate the loss of existing greenery to the front of Hedsor Place and maintain the existing verdant character of the street. The space between the new house and shared flank boundary with no. 9 Maidenhead Court Park would be narrower than the prevailing gaps between buildings along this section of Maidenhead Court Park, but it is considered that the 1.5m gap and hipped roof would maintain the sense of space between buildings and present visual terracing. The scale of the proposal and the lower eaves design is considered to result in a dwelling that sits comfortably between both the existing neighbours, which comprises of a two storey and two and half storey dwelling.
- 6.15 In terms of the design of the dwelling, it incorporates similar features to that of Hedsor Place with the roof design and double fronted gables.
- 6.16 For these reasons the proposed dwelling is considered to be of a high quality design that would be in keeping with the character and appearance of the area in accordance with Local Plan Policies DG1, H10 and H11 and the provisions of the NPPF in this respect.

### **Impact on Neighbouring Amenity and Future Occupiers**

- 6.17 The proposed dwelling would be sited approximately in-line with no. 9 and 13 Maidenhead Court Park and would not extend significantly further forwards or rearwards of these adjoining houses. It is therefore not considered to result in a significant loss of light to or visual intrusion when viewed from their rear and front windows or neighbouring gardens. It is noted that no. 9 Maidenhead Court has a number of ground-floor and first-floor side windows on the northwest elevation. On the ground floor there is a window serving a kitchen, but as this kitchen window is north facing and not the only source of natural light or outlook with another kitchen window on the southwest elevation, this relationship is considered acceptable. The remaining ground floor windows serve non-habitable rooms. With regards to the first-floor, the proposal dwelling would not intrude through a 25 degree taken from the mid-point of these side-facing windows and therefore unlikely to result in an undue loss of light or visual overbearing to the detriment of neighbouring amenity. With regards to no. 13 Maidenhead Court Park there are no side windows to the main house on the southeast elevation, with only a high level, ground floor window serving the adjoining garage. As this is a non-habitable room, the proposal is not considered to result in undue harm to neighbouring amenity in this respect.

- 6.18 A first floor window is proposed on the southeast elevation of the proposed house which would face no. 9 Maidenhead Court Park. However, this would serve an en-suite and if it had been recommended for approval a condition could be attached to any permission granted to ensure that the window was obscurely glazed and non opening to a level of 1.7m above finished floor level. Windows to the front and rear elevation are not considered to result in an undue loss of privacy which materially differ or add to existing levels of overlooking. Concerns have been raised over loss of privacy from a proposed balcony, but no balcony is shown on the proposed floor plan or elevations (drawing ref: D1418/PL02 B and D1418/PL03 A). A distance of 24 metres would be maintained between Hedsor Place and the proposed dwelling from front to rear which would be considered sufficient to prevent any issues in respect to overlooking and loss of privacy.
- 6.19 The proposed dwelling would be of an appropriate size, there would be sufficient levels of natural light to serve the main living area and an appropriate level of private amenity size. It is considered that the proposed redevelopment would provide a good living environment for future occupiers.
- 6.20 Concerns were also raised over undue levels of smell from the proposal given its proximity to the neighbouring house at no. 9, but given that it is one unit and its residential nature it is not considered that the proposal would generate unreasonable levels of smell or other disturbances such as noise. Overall, the proposal is considered to meet the aims and objectives Core Planning Principle 4 of the NPPF.

### **Highway Safety and Parking**

- 6.21 Maidenhead Court Park is an adopted residential street which is approximately 6.0m wide and subject to a local 30mph speed restriction. There is a 2.2m wide footway adjacent to the proposed access point and a 2.0m wide verge and 1.3m wide footway opposite. The existing dwelling (Hedsor Place) has an in-out drive arrangement. It is proposed to utilise the centrally located access point to serve the new development and construct a new access further to the north in order to serve Hedsor Place. The proposed access to the existing and proposed house would achieve stopping sight distances of 2.4 x 43 metres each way, in compliance with the principles as set out in Manual for Streets, and so there are no objections in terms of visibility. The redundant southernmost access point would need to be stopped up for use by vehicles and the adjoining footway/verge crossover reinstated, which could be secured by condition.
- 6.22 The proposed car parking layout for the proposed house would provide adequate parking and turning facilities for two cars which would meet the Council's adopted Parking Standards for a 3-bed house. In addition, while the proposal involves the loss of garages for Hedsor Place, sufficient parking and turning would be retained for the existing 4-bed dwelling to the front of the house.
- 6.23 The proposed development would result in an increase in 6-12 vehicle movements per day, but would not be substantial enough to have a negative impact on highway safety and the local road network.
- 6.24 Overall, the proposal is considered to meet the aims and objectives of Local Plan policy P4 and T5.

### **Other Material Considerations**

#### Trees

- 6.25 The proposal would result in the loss of a tree, but it is not protected and not considered to contribute significantly to visual amenity. As such there are no objections to its loss.

#### Contaminated Land

- 6.26 The site is located on old gravel pit however there is no objection to the development subject to a condition if minded to approve in the event that unexpected soil contamination is found after development has begun.

## Precedents

- 6.27 Concerns have been raised over the lawful status of the garage and annex and the precedence of build development in this location. Attention has also been drawn by local residents to planning applications within the locality to support their objection. The lawfulness of the garage and annex is a separate issue to this application, and the proposed house is assessed on its own merits.

## Housing Land Supply

- 6.28 Paragraphs 7 and 14 of the National Planning Policy Framework (NPPF) set out that there will be a presumption in favour of Sustainable Development. Paragraph 49 of the NPPF states that applications for new homes should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.29 It is acknowledged that this scheme would make a contribution to the Borough's housing stock. However having regard to the 'tilted' balance requested by paragraph 14 of the NPPF it is the view of the Local Planning Authority that that the socio-economic benefits of the additional dwelling would be significantly and demonstrably outweighed by the adverse impacts arising from the scheme proposed, in particular flood risk for the reasons in paragraph 6.3 – 6.12.

## **7. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 7.1 In line with the Council's Charging Schedule the proposed development would now be CIL liable. The required CIL payment for the proposed development would be £100 per sqm based upon the chargeable residential floor area.

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

4 occupiers were originally notified directly of the application. The planning officer posted a statutory notice advertising the application at the site on 2.06.2016.

17 letters of objection were originally received including 3 letters reiterating concerns, summarised as:

Comment		Where in the report this is considered
1.	Out of character within the streetscene and wider locality due to the smaller plot size following subdivision; inconsistent siting with the uniform building line / there is no consistent building line and therefore attempts to unify it would be harmful; excessive bulk and poor design of the house; incongruous spacing between building; and lack of front garden with little space for planting contrary to the existing verdant character.	Para. 6.13 – 6.16
2.	Overdevelopment of the site resulting in a cramped development. Density is too high and out of keeping with low density locality.	Para. 6.14
3.	Increase in flood risk, no safe access or egress, application has previously been refused on this basis.	Para. 6.3 – 6.12
4.	Dominant and overbearing, overlook to neighbouring property, smells from new residential property would result in harm to neighbouring amenity	Para. 6.17 – 6.20
5.	Loss of a tree, loss of existing greenery / vegetation to the front of	Para. 6.14 and

	Hedsor Place.	6.25
6.	Sited on an old gravel pit, raising concerns over land contamination.	Para. 6.26
7.	Additional drive and insufficient parking, resulting in on-street parking, would be detrimental to character and highway safety.	Para. 6.21 – 6.24
8.	Need for housing - local policies should not be disregarded in light of NPPF. Development would not make a significant contribution to housing need. Maidenhead is already building housing to meet demand.	Para. 6.28 – 6.29
9.	Inaccurate streetscene, and objector has produced an alternative streetscene for consideration.	Officers do not rely on streetscenes in assessing the merits of a proposal.
10.	Loss of view of Hedsor Place which is an attractive building.	Not a material planning consideration
11.	Precedent for tandem development, planning applications for similar development has been refused.	Each application must be considered on its own merits
12.	Garages and annex are not authorised, and the garage and annex should not set a precedent for build development in this location.	Each application must be considered on its own merits
13.	Issues relating to party wall, damage neighbouring properties / foundations.	Not a material planning consideration

Following the Consent Order, 15 occupiers were re-notified. 23 letters were received. Below are additional concerns not covered by summary above:

Comment		Where in the report this is considered
1.	Application should not have been allowed to continue after the High Court Judgement.	The application has been reverted back to the Council for determination by the High Court.  The application has not been withdrawn by the applicant, and the application does not fall under any of the criteria outlined in Section 70B of the Town and Country Planning Act 1990 (as amended).
2.	High Court agrees that the proposal is inappropriate development in a flood plain and out of keeping with the environment	A judicial review is the process of challenging the lawfulness of decisions of public authorities, and was not a comment on the merits of the decision.
3.	The SHLAA (Appendix D) dates from 2014 and only provides an illustration of some of the available sites at the time of writing. On this basis the Sequential Test	The SHLAA used in the Sequential assessment is the most recent, and in the absence of a 5-year land

	has not been met.	supply report for the Borough the SHLAA is the primary document for determining sites that are available, suitable and deliverable. Local Plan policy H2 also identifies sites, but has been acknowledged that the site identified under H2 are not comparable in terms of size and yield.
	As a result of higher finished floor levels, the proposed building would be taller than neighbouring houses which would be overbearing and overly dominant.	As a result of applying 300mm above the 1:100 year plus climate change allowance level (25.85m AOD) there are no external changes proposed to the proposed dwelling as originally submitted.
	Inadequate re-consultation.	Statutory consultation has been undertaken.

### Other Consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	Awaiting comments on the submitted FRA addendum.  The original FRA failed to demonstrate that the finished floor levels of the development are set 300mm above the 1% annual probability flood level with an appropriate allowance for climate change and that there is no loss of flood water storage within the 1% annual probability flood extent with an appropriate allowance for climate change.	Will be reported in an update.  Para. 6.7 – 6.13
Maidenhead Civic Society	Harm to streetscene, obscuring view of attractive existing house, break in building line, tandem development.	Para. 6.15.
Environmental Protection	No objection subject to condition related contaminated remediation in the event that unexpected soil contamination is found after development has begun, and informatives relating to dust and smoke control and hours of construction.	Para. 6.27
Local Highway Authority	No objection subject to the following conditions: <ol style="list-style-type: none"> <li>1. HA03A (new &amp; altered access to be provided as per approved drawing numbered D1418/PL01)</li> <li>2. HA9A (parking/turning layout as per Drwg. No. D1418/PL01)</li> <li>3. The existing southernmost access point to the site shall be stopped up and abandoned for use by vehicles immediately the new access arrangements being first brought into use. The adjoining footway and verge shall be reinstated</li> </ol> In addition, it is recommended that the following highway informatives be attached to any planning consent: <ol style="list-style-type: none"> <li>1. HI04 (highway licence for new northern access;</li> </ol>	Para. 6.22 – 6.25

	<p>central access alterations and stopping up of southern access works)</p> <p>2. HI06 (recovery of costs re: any damage caused to footways/verges)</p> <p>3. HI07 (recovery of costs re: any damage caused to the public highway)</p>	
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**9. APPENDICES TO THIS REPORT**

- Appendix A – Site Location Plan
- Appendix B – Site Layout
- Appendix C – Proposed Plans and Elevations

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have not been successfully resolved.

**10. RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED**

- 1 The proposal fails to demonstrate that the development can provide appropriate safe access and egress for future occupants to an area wholly outside of the 1% AEP with an appropriate allowance for climate change flood extent. The proposal is therefore contrary to paragraph 103 of the National Planning Policy Framework.