



Appeal Decision

Site visit made on 20 January 2022

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 FEBRUARY 2022

Appeal Ref: APP/L2250/W/21/3275272

36 Orgarswick Avenue, Dymchurch TN29 0NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Barry Thomas against the decision of Folkestone & Hythe District Council.
 - The application Ref Y18/0971/FH, dated 9 July 2018, was refused by notice dated 12 February 2021.
 - The development proposed is for the change of use of land to part of residential curtilage, together with erection of sheds, a greenhouse, and the creation of a hard standing for the siting of caravans.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At my site visit, I saw that the development has been completed and I note that the application has been submitted retrospectively. I have used the description on the Council's decision notice as it better focusses on the development proposed.

Main Issues

3. The main issues are the effects of the development having regard to (a) flood risk; and (b) biodiversity.

Reasons

Flood risk

4. The appeal site lies to the rear of dwellings fronting Orgarswick Avenue, and is accessed via a gate from Eastbridge Road. To the north and west runs Hoorne's Sewer, a drainage channel that runs through the Romney Marshes towards the sea.
 5. The Environment Agency (EA) object to the proposal on the grounds that the development is within 8 metres of a main river and does not provide adequate buffer zone to the Hoorne's Sewer. The various outbuildings and storage of touring caravans and other garden materials in this area, immediately adjacent to the river bank, restricts the EA's access to the main river for essential maintenance work. Furthermore, the materials stored close to the main river may become mobilised during time of high flow, causing a blockage further downstream.
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6. I note the appellant's position that the various elements have been in place for a number of years, there have been no problems and that other properties have similar development in close proximity to the watercourse. However, I have not been provided with any specific flood-related evidence that supports the ongoing use of the land for its current purposes, and I do not discount that the channel may be needed to serve the locality at a future point even if there have been no recent incidents. Development within the curtilages of other houses would be neutral considerations in any balance against planning harm, and in any event each case must be assessed on its own merits.
7. Even if I were to accept that the caravan could be moved to allow access to the EA, this would not alleviate my concern that such storage close to the main river may become mobilised during time of high flow, causing a blockage further downstream. I am conscious that the maintenance of the feeder channel and barriers to its future use would result in long term drainage problems. This could lead to increased flood risk in the immediate locality, or elsewhere.
8. I acknowledge that the appeal site has been maintained for a number of years to the benefit of the local surrounds, however this does not outweigh the harm I have identified above. I also note that the issue might be overcome by providing an 8 metre buffer zone to the watercourse; I have dealt with the appeal development as it stands and such matters would be for future discussion between the appellant and the Council.
9. Therefore, I find that the development would lead to unnecessary flood risk/management issues. This would conflict with Policies NE8 and NE9 of the the Folkestone & Hythe Places and Policies Local Plan September 2020 (LP), which aim to preserve the coastal environment, reduce flood risk and contribute to a greater safeguarding of property. It would also be inconsistent with the National Planning Policy Framework (the Framework) which seeks to ensure that flood risk is not increased.

Biodiversity

10. The EA refers to Article 10 of the Habitats Directive, which 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.
11. The various outbuildings and storage would disrupt the natural network around Hoorne's sewer, which would adversely impact upon an area of local ecological significance. Consequently, the proposal would neither contribute to, nor enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
12. I conclude that the scheme would be harmful to biodiversity, contrary to Policy NE2 of the LP, the Framework and the Habitats Directive, which collectively seek to enhance, retain and protect existing sites and features of nature conservation value including wildlife corridors.

Conclusion

13. For the reasons given, and having regard to all matters raised, the appeal is dismissed.

C Hall

INSPECTOR