



Appeal Decision

Site visit made on 24 June 2026

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Appeal Ref: APP/D1265/W/23/3334671

4 Pitcher Close, Winterborne Kingston DT11 9BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Neil Legg against the decision of Dorset Council.
 - The application Ref is P/FUL/2022/07326.
 - The development proposed is to erect new 3 bed dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development above from the application form as no details confirming a change was agreed has been provided.

Main Issue

3. The main issue of the appeal is whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding and avoid increased risks from flooding.

Reasons

4. Much of the footprint of the proposed dwelling would be located in flood zone 1 from fluvial sources and flood depths within the site are said to be relatively low in the Aegaea Flood Risk Assessment (FRA). Nevertheless, regardless of whether the site has flooded previously, parts of the site are within flood zone 2 and flood zone 3, including a section of the dwelling itself. In addition, whatever the reliability of the on site measurements taken, the FRA indicates the site to be within the 50-75% or 75-100% risk area for groundwater flooding. A small part of the site is also located within the 'low' and 'very low' surface water risk areas according to Environment Agency maps.
5. Policy 3 of the North Dorset Local Plan (Local Plan) states that development should seek to minimise the impacts of climate change overall through the avoidance of areas at risk of flooding from all sources.
6. The National Planning Policy Framework (Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. A sequential approach is set out and the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It states that the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

7. Planning Policy Guidance (PPG) states that this sequential approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas. It states that where there are no reasonably available sites in Flood Zone 1, to consider reasonably available sites in Flood Zone 2 (medium probability). Only where there are no reasonably available sites in flood zones 1 or 2 should the suitability of sites in flood zone 3. It also clarifies that areas at risk of flooding are those at risk of flooding from any source, now or in the future. Sources include rivers and the sea, direct rainfall on the ground surface and rising groundwater.
8. The Framework and PPG do not state that it is only where the proposed building would be in the flood zones but refers to sites. Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.
9. Consequently, planning applications, such as the appeal proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding. The Framework and PPG do not stipulate the extent of the search area. On the evidence before me, which does not clearly indicate a specific need at the appeal site, the extent of the Council area appears appropriate as the search area. The applicant/appellant needs to identify whether there are any other 'reasonably available' sites within the area of search.
10. No detailed sequential assessment has been provided by the appellant. Therefore, the appellant has failed to show that there are no reasonably sequentially preferable locations and that there are no other sites that could accommodate the proposed development in areas of lesser flood risk.
11. As such, the proposal would not comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding or avoid increased risks from flooding. The scheme would fail to accord with Policy 3 of the Local Plan. The scheme would also be contrary to the Framework where it states that development should be steered to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

Other Matters

12. The Framework seeks to significantly boost the supply of housing and small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. The scheme would also be a more efficient use of land. Any economic benefits associated with the construction works would be short term. The benefits above and from the future occupation of the property and energy efficiency would be small given the size of the proposal.
13. The appeal site is currently a garden area, relatively well screened and does not detract from the character and appearance of the area. The appearance and scale of the proposed dwelling would be in keeping with those in the existing terrace. However, a lack of harm does not weigh in favour of the scheme.

14. The scheme is contrary to the policies of the Framework and provides a clear reason for refusing the development in relation to the protected areas at risk of flooding. The presumption in favour of sustainable development as set out in paragraph 11d)ii therefore does not apply.
15. The site is within the Dorset Heathlands Special Protection Area, Ramsar Site and Special Area of Conservation buffer zone. There is no need for me to undertake an appropriate assessment because the scheme is unacceptable for other reasons and would not take place. In any event, even if mitigation prevented harm to these sites, this would be a neutral factor.

Conclusion

16. The proposed development conflicts with the development plan when considered as a whole, and the Framework, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
17. Therefore, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR