



Appeal Decision

Site visit made on 23 February 2025

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/M3835/W/24/3352190

Land East of 20 Bernard Road, Latimer Road, Worthing, West Sussex BN11 5EL

- 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 P Nash against the decision of Worthing Borough Council.
 - The application Ref is ADWM/0947/23.
 - The development proposed is for the demolition of an existing garage and erection of a new chalet bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity, I have used the address and description of development given on the Council's decision notice.
3. The National Planning Policy Framework (the Framework) was revised in December 2024. The parties have had the opportunity to comment on the new document. Consequently, in reaching my decision I have therefore had regard to the new Framework, and any reference to Paragraph numbers are to this version.

Main Issue

4. The main issue in this appeal is flood risk.

Reasons

5. The appeal site is a parcel of land located in a residential area which is found to the side of a dwelling that once formed part of the garden space associated with 20 Bernard Road. The proposal is to demolish a garage on the appeal site and construct a chalet bungalow with parking for two vehicles.
6. The appeal site is within an area benefitting from coastal flood defences. As such, the appellant's updated Flood Risk Assessment (FRA) concluded that flood risk on the site would be minimal. Moreover, it is also a matter of agreement with the Council's drainage engineer, that any surface water flooding could be managed by an appropriate and conditioned SuDs scheme. Furthermore, the proposed dwelling now meets the Environment Agency's technical design requirements.

7. Nonetheless, while the Council acknowledge that flood risk on the appeal site would be 'low', the Environment Agency (EA) Flood Map shows that the proposed development would be within Flood Zones 2 and 3a. Paragraph 170 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
8. In addition, Paragraph 172 of the Framework sets out the sequential risk-based approach that should be taken for proposals in areas known to be at risk now or in the future from any form of flooding, with the aim being to steer new development to areas with the lowest risk of flooding from any source.
9. However, the appellant contends that sequentially preferable sites within a lower flood risk zone than the appeal site that are developable for housing are not 'reasonably available' in the Borough, and even if it were to be otherwise, the FRA suggests that sites recorded in the Council's Strategic Housing Land Availability Assessment (SHLAA) cannot be delivered within a 2-year timeframe. Therefore, the appellant argues that the proposal meets the sequential test set out in the Framework.
10. Nevertheless, I have no substantiated evidence before me to persuade me that the SHLAA sites or indeed other private 'windfall' sites in Zone 1 are unavailable or undevelopable in a reasonable timeframe in order to contribute towards the Council's housing targets. Indeed, the Council has not only brought to my attention that a review of the SHLAA identified that at least 26 SHLAA sites can be delivered within a relatively short time frame, but also that a number of sites have already been delivered. Additionally, while garden sites have been excluded, the confined extent of EA Flood Zones 2 and 3 in the Borough means that other small scale infill sites of lower flood risk than the appeal site are likely to be available for development.
11. In spite of this, the appellant has identified a town centre scheme¹ which 'passed' the required sequential test located in Flood Zone 3 in support of his case. However, whether under certain circumstances 'windfall' sites within higher Flood Risk Zones have been found by the Council to be acceptable or not, given that the proposed development would be on a residential garden type plot located in a different type of area altogether, and that Policy SS3 of the Worthing Local Plan (2023) (WLP) is clear that development is usually directed to the town centre, I give this matter little weight.
12. Therefore, given my findings above, the proposal does not meet the sequential test. It follows then that the application of the 'Exception Test' set out in Paragraph 178 of the Framework and the Planning Practice Guidance (the PPG), to this 'more vulnerable' site does not apply.
13. Accordingly, I conclude that the proposed development would fail to accord with local and national planning policy relating to flood risk, with specific reference to Policy DM20 of the WLP and the relevant provisions of the Framework set out above.

¹ AWDM/1884/22

Planning Balance

14. It has been brought to my attention by the appellant that the standard method for calculating housing need has been revised to support the Government's housing delivery targets. Moreover, that Paragraph 11d of the new Framework broadens the circumstances under which the 'tilted balance' in favour of sustainable development is engaged. However, Footnote 7 of Paragraph 11 d(i) of the Framework is clear that certain sites, including those at risk of flooding, are to be protected. Therefore, even though the appeal site is 'defended', as the proposed dwelling would be in Flood Zone 2 and 3, and the risk of 'over-topping or a catastrophic flood event cannot be fully eliminated, the 'tilted balance' is disengaged.
15. Nonetheless, the appellant contends as the proposal would make effective use of land the benefits of the proposal should be weighed against flood risk. As such, the appellant argues that the proposal would add economically to the vitality of the Borough and improve an unkempt garden site. Moreover, the development would be located in a well-connected area with good amenities and regular transport links to Worthing town centre. Furthermore, whether rear garden infill plots have been excluded from housing delivery targets or not, it would also make a contribution to the Councils housing land supply. However, even in combination, the benefits provided by a modest single dwelling would be very minimal. I conclude therefore, any benefits associated with the proposal would not outweigh flood risk.

Conclusions

16. The proposed development conflicts with the development plan taken as a whole, and as there are no material considerations of sufficient weight to indicate that a decision should be made other than in accordance with the development plan and the Framework, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR