Appeal Decision

Site visit made on 17 February 2025

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/C3810/W/24/3356442
Hook House, 51 Hook Lane, Bognor Regis, West Sussex PO22 8AR

- 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 Tony Portsmouth against the decision of Arun District Council.
- The application Ref is BR/50/24/PL.
- The development proposed is 4 bedroom house change to a 6 bedroom student HMO property.

Decision

1. The appeal is dismissed.

Preliminary matter and main issue

2. Within the context of an appeal under section 78 of the Act it is not within my remit to determine whether the proposed development requires planning permission as raised by the appellant.

3. The main issue is whether the proposed development would be safe from flooding.

Reasons

4. The appeal site is situated within a mainly residential area, on the roughly north east side of a bend in Hook Lane close to its junction with Madeira Avenue, within the built up area of Bognor Regis. The existing 2 storey appeal building includes 5 first floor bedrooms and one ground floor bedroom, and its external appearance would not change.

5. Policy W DM2 of the Arun Local Plan 2011-2031 (LP) aims for development in areas at risk from flooding, identified on the latest Environment Agency (EA) flood risk maps and the Council's Strategic Flood Risk Assessment (SFRA), to only be permitted where all of its criteria have been met, including that a site specific flood risk assessment demonstrates that the development will be safe, including access and egress.

6. LP Policy W DM2 is in line with the National Planning Policy Framework (Framework), which states that inappropriate development in areas at risk from flooding (whether existing or future) should be avoided, and that where development is necessary in such areas, it should be made safe for its lifetime. The Framework aims to take into account all sources of flood risk and the current and future impacts of climate change, and seeks a site-specific flood risk assessment for all development within Flood Zones 2 and 3.

7. The site is within undefended fluvial Flood Zone 2 and undefended tidal Flood Zone 3. So, the proposal would be at high risk from flooding during its lifetime.

8. The appellant's flood risk assessment dated February 2024 (FRA) explains that there are flood defences in place. As the site would be at low risk of defended fluvial and defended tidal flooding, and having regard to residual risks and the unpredictable nature of surface water flooding, the FRA advises resilience and mitigation measures, including water resilient finishes, and occupiers signing up for EA flood warnings.

9. However, whilst the SFRA says that such events are very rare, there is no certainty that over-topping or breach of the flood defences would not occur during extreme or sudden events. As there is little evidence to show that the appeal building's fabric would withstand the hydrostatic pressure of the flood water, and as areas behind flood defences are at particular risk from rapid onset of fast-flowing and deep-water flooding, with little or no warning if defences are breached, the proposal would be at risk from internal flooding. From the data in the FRA, the proposal would be at risk from inundation of up to 1.12 m to 1.44 m depth of undefended tidal flooding in the 1 to 200 year plus 20% climate change event. So, the lives of the ground floor bedroom's occupiers would be put to unacceptable risk from flooding.

10. The single dwellinghouse and the HMO both fall within the 'more vulnerable' class in Framework Annex 3. Moreover, a single household could include more people than the 6 person HMO. However, members of a single household would usually have access to most or all of the first floor rooms and would be able to seek refuge upstairs with other household members in the event of flooding. As the HMO's unrelated occupiers would reasonably expect to be able to lock their doors whilst away from their rooms, and to come and go from the premises without informing others, the occupier of the ground floor bedroom would only have access to the internal landing and bathrooms upstairs, which are lit only by obscure glazed windows with shallow high level opening lights, and which are barely visible from the public domain. Also, whilst members of a single household would be likely to instinctively alert other members, the HMO's occupiers would not reasonably expect to know each other's whereabouts at any time. So, the occupier of the ground floor bedroom would not be able to rely on the goodwill or availability of others.

11. As the occupier of the ground floor bedroom might be asleep during a sudden undefended tidal inundation, they might not be able to reach the stairs to the upper floor. Even if they did, the constraints of the shared first floor accommodation would not be an acceptable refuge for a potentially lengthy period whilst waiting to be discovered and rescued, or waiting for flood water to subside. Whilst the appellant has suggested that mutual assistance during emergencies could be a condition of tenancy agreements, there would be no certainty that any of the first floor bedrooms would be occupied during a flooding event.

12. Therefore, I consider that the proposed development would not be safe from flooding. It would be contrary to LP Policy W DM2 and the Framework.

Other matter

13. The Council cannot demonstrate a 5 year supply of deliverable land for housing. The shortfall is significant. However, as the application of policies in the

Framework that protect areas of particular importance provides a strong reason for refusing the development proposed, planning permission should not be granted.

Conclusion

14. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.

15. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR