
Appeal Decision

Site visit made on 4 June 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 JULY 2025

Appeal Ref: APP/D3830/W/24/3350655

Land Opposite 10 Bridgers Mill, Haywards Heath, West Sussex RH16 1NT

- 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 Jeffery Boardman against the decision of Mid Sussex District Council.
 - The application Ref is DM/23/0762.
 - The development proposed is a detached, chalet style, three-bed dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2024. The main parties have both had the opportunity to comment on the relevance of the revised Framework. My attention has been drawn to sections of the Framework relating to the delivery of a sufficient supply of homes, as well as meeting the challenge of flooding. I have determined the appeal in light of the representations made and the revised Framework.
3. After the start date for this appeal, the Environment Agency produced revised flood maps and supporting information. This, together with representations on the matter from both main parties, has been taken into account.

Main Issues

4. The main issues are:
 - whether or not the site would be a suitable location for the proposed development, having regard to the risk of flooding and
 - the effect of the development on the character and appearance of the area, including in relation to existing trees.

Reasons

Flood risk

5. The appeal site is located near the Scrase Stream and within an area at risk from surface water and fluvial flooding. The proposal would introduce a residential dwelling - a more vulnerable form of development – on currently undeveloped grassland, and thereby would increase the flood vulnerability of the site.
6. It is agreed by both main parties that the site falls within flood zone 2 for fluvial flooding, as confirmed by the Environment Agency's (EA) updated flood map for

planning. However, there is disagreement as to the surface water flood risk classification. The Council considers the site to be within flood zone 3b (the functional floodplain), while the appellant asserts it that it lies within flood zone 2. No formal response has been provided by the EA such to clarify the position.

7. Both parties have submitted evidence on surface water, drawing on EA mapping. The appellants' evidence is based on a single location point at 9 Bridgers Mill, which lies outside the appeal site. The EA advises that such maps are not suitable for assessing flood risk at individual site level, casting doubt on the reliability of the appellant's assessment. Notably, the appellant concedes that landscaped parts of the site fall within an area of higher surface water flood risk. The Framework is clear that access routes and land raising areas all constitute built development for flood risk purposes, for this reason, I have treated the garden area, which is an integral part of the development, as part of the built development for flood risk purposes.
8. In contrast, the Council has submitted EA surface water depth maps specific to the appeal site, identifying the highest annual probability of flooding under both the present day and future (2040–2060) climate scenarios. These maps indicate that parts of the site—including the proposed dwelling footprint, garden and parking area—are at high risk of annual flooding, with depths likely to reach or exceed 0.2m and 0.3m, and up to 0.6m under the climate change scenario. This high level of risk for surface water corresponds to a 1 in 30-year event (3.3% annual probability), consistent with Flood Zone 3b (the functional floodplain)¹.
9. Therefore, on the basis of the submitted evidence, for the purposes of this appeal the site should be treated as falling within flood zone 3b. In accordance with table 2 of the PPG, residential development constitutes inappropriate development and should not be permitted². However, even if this was not to be the case and the site was considered to fall within a lower surface water flood category, there are several shortcomings in relation to the sequential test.
10. The appellant has submitted three versions of the sequential test, the most recent dated February 2024. The search area for the sequential test, for a scheme of a single market dwelling, would often, in my view, be the whole of the Borough, as this would reflect the basis on which housing delivery is generally monitored. However, in this case a more refined search area has been agreed between the Council and the appellant. In light of this agreement, I have not considered the issue with respect to the area of search further.
11. In paragraphs 5.5 to 5.16, the appellant outlines a search methodology that seeks to exclude the Planning Practice Guidance (PPG) advice regarding the potential for larger sites to meet the need for single units as part of a larger development. Specifically, the appellant discounts any site exceeding 0.1 hectares or with permission for two or more dwellings. This includes, for example, a windfall site at 2 The Spinney, Eastern Road, which was excluded because it has permission for two units.
12. This approach is inconsistent with the PPG, which clearly states that reasonably available sites may include part of a larger site if it is capable of accommodating the

¹ Table 1 of the PPG, Paragraph: 078 Reference ID: 7-078-20220825, Revision date: 25 08 2022

² Flood Risk vulnerability and flood zone 'incompatibility', Paragraph: 079 Reference ID: 7-079-20220825
Revision date: 25 08 2022

proposed development. The recent Mead case³ has confirmed that the PPG carries the same weight as the Framework.

13. The appellant seeks to justify this restrictive approach on the basis of higher land values associated with larger sites, and perceived viability concerns with reference to the appellants' financial position and circumstances. Although the appellant may not have the financial means or desire to develop a larger scheme or site, the proposal is not sought on a personal basis and as such I do not consider that the individual circumstances of the appellant justify restricting the search in this way. Therefore, such factors do not justify narrowing the scope of the sequential test. Moreover, no detailed viability evidence has been provided to substantiate these claims.
14. Additional reasons for discounting sites include assertions that transaction costs would render alternative sites financially unviable. While the Mead case supports a degree of realism and flexibility in assessing site availability, the methodology adopted here is unduly narrow and fails to reflect the policy's intent. The sequential test, as presented, does not robustly demonstrate that there are no reasonably available alternative sites at lower risk of flooding than the appeal site.
15. While the proposal includes mitigation measures outlined in the appellant's Flood Risk Assessment (FRA)—including on-site fluvial flood storage—these do not remove the requirement to first satisfy the sequential test, as set out in the Framework and PPG. The sequential test must be passed before consideration of the exception test or the FRA.
16. The appellant has referred to development being approved in higher flood risk areas in London. However, without specific details of those schemes—such as whether the sites were allocated in a development plan or whether sequential or exception tests were applied—no direct comparison can be made. My assessment is based solely on the site-specific flood risk evidence presented in this case. Additionally, while the appellant intends to construct the dwelling as a self-build, this does not alter the flood risk implications of the proposal.
17. Accordingly, I conclude that the site is not a suitable location for the proposed development due to the identified flood risk. The proposal fails to adequately address this risk and therefore conflicts with Policy DP41 of the Mid Sussex District Plan 2018 (DP), the Framework and the PPG. Collectively, these policies require that inappropriate development in areas at risk of flooding be avoided by steering development towards areas at lower risk.

Character and appearance

18. The appeal site lies within a built-up residential area, where the street scene is dominated by built form. The site offers limited amenity value. It is partially enclosed, and with the exception of the mature Oak tree which is to be retained in any event, on site planting lacks significant stature. As such, whilst soft landscaping within the site are positive elements, the visual context is instead heavily influenced by the adjacent hospital building and car park, which have a functional appearance and are of a significant scale.

³ Mead Realisations Ltd v The Secretary of State for Levelling Up, Housing and Communities & Another [2024] EWHC 279 (Admin)

19. The proposed dwelling would be raised to allow for flood storage beneath it. Although no street scene or cross-section has been provided for direct comparisons, the ridge height of around 7.5 metres is appropriate and would be consistent with the varied building heights in the area. The dwelling would be visible but not overly prominent, and would sit comfortably alongside nearby properties, including the recently built Little Oaks development.
20. The proposal shares key characteristics with Little Oaks, occupying a similarly sized and shaped plot. While the appeal site is constrained, its form reflects that of neighbouring properties to the north and the modest scale of terraced homes on Bridgers Mill. As such, the development would not appear out of character or visually intrusive within its setting.
21. The proposal includes grassed garden areas and a boundary hedge, which would provide an element of visual relief. Although long-term control over these features would be limited, a landscape scheme together with tree protection measures could help to secure the verdant features of the proposal in the short and medium term. Future occupiers are likely to find the retention of garden and green space to be desirable, and as such there are good prospects of soft landscaping remaining a feature of the site in the longer term.
22. The proposal would retain three existing trees within the site boundary. These include a mature Oak tree centrally located on the site, a young Oak tree positioned near the rear boundary, and a Sweet Chestnut tree of comparable size adjacent to the younger Oak.
23. The mature Oak tree, which is subject to Tree Preservation Order⁴, is of significant size and landscape value. It provides an important contribution to the visual amenity of the area, serving as an effective natural screen between the hospital site to the rear and Bridgers Mill. Although the younger Oak and Sweet Chestnut trees do not currently offer the same level of visual prominence, their retention is likely to have long term benefits. Both trees exhibit strong growth potential and are expected to make an increasingly valuable contribution to the site's landscape quality and biodiversity over time.
24. The canopy of the mature Oak tree would extend over a substantial portion of the proposed rear garden. While this would result in some degree of shading, the extent and intensity will vary seasonally and throughout the day. Importantly, such shading is not inherently detrimental; during periods of elevated temperatures, it is likely to enhance the usability and comfort of the garden by providing natural cooling and shelter.
25. Additional garden areas are available to the side and front of the dwelling, ensuring that the overall functionality of the external space is preserved. There is no substantive evidence to suggest that the level of shading anticipated would materially constrain the use or enjoyment of the garden. With regard to internal living conditions, any shading from the tree canopy would be limited primarily to the early morning and would affect a room that benefits from multiple sources of sunlight and daylight. As such, the internal environment will continue to receive adequate natural light throughout the day. Given these considerations, the proposal is unlikely to give rise to future pressure for inappropriate pruning or felling of the mature Oak tree.

⁴ TPO REF CU/TPO/84

26. The proposal incorporates the use of a cellular confinement system, such as CellWeb or an equivalent no-dig solution, to ensure that future root growth of the younger trees is not unduly restricted. This approach would maintain soil permeability and aeration within the rooting zones. While a degree of residential activity is anticipated in proximity to the root protection areas, there is no substantive evidence to suggest that such activity would adversely affect the long-term health or growth potential of the retained trees. The close relationship between the proposed parking areas and the younger trees is not uncommon in residential settings. Provided that construction within these areas adheres to a no-dig methodology, the development is unlikely to result in any detrimental impact on the trees' long term physiological condition or structural stability.
27. The 2018 appeal decision, relating to an application for permission in principle, was not based on detailed plans for a new dwelling, as is the case for the proposal before me. Whilst that decision placed significant emphasis on the loss of the verdant character, from my own observations I found that adjacent built up had a greater influence on the character of the area than its verdant features. I understand that the size of the site has been increased since that decision. Although I acknowledge the findings of that inspector, this does not alter my findings on character and appearance, which are based on the current site circumstances and the detailed plans and supporting information before me.
28. My attention has also been drawn to a 1990 dismissed appeal⁵. This was a historic outline application for a three-bedroom dwelling, submitted under a different policy context. There is very limited evidence as to how the broader site context has evolved since then. The decision letter references the site's "open treed" condition at the time, which no longer reflects its current state. As such, I attribute this earlier appeal decision very limited weight.
29. Overall, I find the proposal would be acceptable in terms of its effect on the character and appearance of the area, including in relation to existing trees. The proposal would therefore comply with Policies DP26 and DP37 of the DP and Policies E9 and H9 of the Haywards Heath Town Council Neighbourhood Plan 2016. These policies, taken together and insofar as relevant, require development to be of a high-quality design which protects and reinforce local character, including through the protection of existing trees and including appropriate landscaping.

Other Matters

30. Despite what is stated in the planning application form, it is clear that the proposal is for a self-build home for the appellant and their family. While I do not question the appellant's intention, there is currently no formal mechanism—such as a planning obligation—to ensure the development is secured as a self-build project.
31. Councils are required to grant sufficient planning permissions to meet the demand for self-build and custom housebuilding in their area. The appellant claims that only one self-build site is listed on the Council's website, despite 28 individuals having registered interest as of October 2023. The Council has not provided any evidence to challenge these figures. This suggests the Council has not met its statutory duty to provide sufficient permissions. If a suitable mechanism were introduced to secure the proposal as a self-build, it would be a relevant factor in favour of the

⁵ Appeal reference T/APP/D3830/A/89/132707, planning application reference GG/120/89.

appeal. However, the weight given to this consideration is for the decision-maker to determine.

Planning Balance and Conclusion

32. The proposal conflicts with planning policies on flood risk, and this harm carries significant weight against the scheme. Although the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the proposal would conflict with policies of the Framework in relation to areas at risk of flooding. The application of these policies provides a strong reason for refusal, and the presumption in favour of sustainable development in terms of paragraph 11 of the Framework should not apply.
33. The scheme would bring temporary economic benefits during construction and longer-term gains through local spending. It would also be built to high environmental standards, incorporating renewable energy, efficient insulation, low water use, and additional flood storage. Ecological enhancements, such as bee-friendly planting, could be secured by condition.
34. The proposal would make a modest but meaningful contribution to housing supply, including to self-build homes if this was able to be secured, at a time when the Council is not meeting its legal duty. While the scheme involves only one dwelling, it would still support the government's target to significantly boost the supply of homes, at a time when the Council cannot demonstrate a five year supply of housing land. The dwelling would be provided in a sustainable location and where development is acceptable in principle.
35. The design is acceptable in terms of character, appearance, and the impact on trees, but these are neutral factors.
36. Overall, the proposal offers several appreciable benefits, but given the scale of development, these carry only moderate weight. The harm and policy conflict regarding flood risk, would outweigh the benefits. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

R. Lawrence

INSPECTOR