



Appeal Decision

Site visit made on 7 August 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st August 2025

Appeal Ref: APP/C3810/W/25/3358593

Land to East of Northfields Lane, Westergate, West Sussex PO20 3UH

- 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 Rees against the decision of Arun District Council.
 - The application Ref is AL/127/24/PL.
 - The development proposed is erection of a single self build house.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single self build house at Land to East of Northfields Lane, Westergate, West Sussex PO20 3UH in accordance with the terms of the application ref AL/127/24/PL, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The address of the appeal site and the description of development used in the banner heading are taken from the application form.
3. The appellant's case is accompanied by a revised Sequential Test dated January 2025¹. This document does not amend the proposal itself so does not amount to a substantive change to the development proposed, nor would accepting it cause unlawful procedural unfairness since the parties involved in the appeal have had the opportunity to comment on it. As such I have taken it into account in determining the appeal.

Main Issue

4. The main issue is whether the proposed dwelling would be suitably located in terms of risk from flooding.

Reasons

5. The National Planning Policy Framework (the Framework) sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding, and sets out steps which should be followed.
6. The majority of the appeal site lies within flood risk zone 1 and this includes the area of the proposed new home. However, as the proposal is for a 'more vulnerable' development type as set out in the Framework and as part of the proposed access track and escape routes fall within areas of flood risk zones 2

¹ Sequential Test by Domusea Developments January 2025 (rev1)

and 3, the Sequential Test must be applied. The need for a Sequential Test is not in dispute between the main parties.

7. The Framework makes clear that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It states development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. 'Reasonably available sites' are defined by the Planning Practice Guidance (PPG) as those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.
8. As above, I have considered the appeal on the basis of the January 2025 Sequential Test that was submitted with the appeal documents. The Council have confirmed during the course of the appeal that it has reviewed that Sequential Test as part of a subsequent planning application and accepted its findings. As such, I understand the acceptability of that document is not in dispute.
9. The Sequential Test includes consideration of an extended search area for alternative sites within 10 miles of the appeal site. While it is not clear how this search area was derived, I understand this was the area suggested by the Council and on balance incorporates a reasonable area for a new dwelling. While I have some reservations surrounding the methodology, for example where it relates to the appellant's ownership contrary to the PPG, the document otherwise sets out a range of sites that were considered for the proposal in areas at less risk of flooding. The most notable were two sites in Aldingbourne and Littlehampton, which were subject to further consideration by the appellant by a basic viability assessment. While there is not detailed evidence to support the viability claims made, I nonetheless have no strong reason to doubt the conclusions and that they would not represent reasonably available alternatives to the appeal site at this time. Therefore, on the basis of the information before me, the Sequential Test is passed.
10. Given the proposed access would cross over an area of flood risk zone 3a, the Exception Test should also be applied, having regard to the two criteria set out in paragraph 164 of the Framework. The sustainability benefits to the community in this case primarily include the provision of a new home. This would contribute to the local housing supply and is of particular importance given the absence of a five year land supply for housing in the District. This house would be on the edge of an existing settlement and be enclosed by other existing properties to three sides where it would be a logical extension to the settlement. Occupants of the site would accordingly benefit from good accessibility to services and facilities nearby and need not be heavily reliant on private cars. While the extent of this benefit is limited by the scale of the development, when weighed against the flood risk of this particular site, of which a very small portion is affected by the zone 3a designation, I am satisfied that the wider sustainability benefits to the community outweigh the flood risk here.
11. Based on the Flood Risk Assessment provided, the development would be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere. The mitigation measures proposed include setting the floor level of the dwelling above the modelled peak flood level, where occupants could remain safe if the access were flooded, integrated flood resilience measures as well as an

appropriate drainage system for the site, allowing for climate change and urban creep. Given the nature of the site I have no reason to doubt that reasonable measures could not be delivered. The appellant also sets out that a Flood Evacuation Plan could also be secured in line with Environment Agency warnings.

12. I am aware of the comments of third parties regarding flooding. However there is not substantial evidence before me, including the Strategic Environmental Assessment for the Aldingbourne Neighbourhood Plan dated 2020, which would lead me to reach a different view.
13. For the reasons given, the requirements of the Sequential and Exception Tests have been met and the proposal would be acceptable in terms of its risk of flooding. The proposal would comply with the criteria for development in areas at risk of flooding given in Policy W DM2 of the Arun Local Plan 2018 (the LP), as well as the requirements of the Framework set out.

Other Matters

14. A third party has highlighted alleged inaccuracies on the application form and issues with the proposed drawings. I do not consider they give reason to delay the determination of the appeal or alter my assessment of the scheme. Where there may be private issues relating to the access road and emergency access to the adjacent development, I have no strong reason to doubt that a suitable solution could be achieved between the relevant parties.
15. The Council's report considers the effects of the development on existing trees, the effects on the character of the area and on the living conditions of nearby residents. I have been provided with a copy of the relevant Tree Preservation Order² and I have no strong reason to reach a different view to the Council on those matters. While the proposal may be visible from the surrounding properties, this change in outlook would not cause unacceptable harm to those living conditions.
16. A third party has drawn my attention to a designated Biodiversity Corridor which is described as being adjacent to the site. Given the retention of open space around the proposed house which provides opportunities for meaningful landscaping and as the proposal is capable of delivering biodiversity enhancements, I have no strong reason to believe that harm would occur to that Corridor. There is not substantive evidence before me to suggest that further consideration of protected species is required beyond that already undertaken.
17. The appellant asserts that the development would comprise self/ custom build housing, intended to be occupied by the appellant and his family. However, despite the description of development, there is no certainty before me that the dwelling would conform to the definition of self and custom-build housing set out in the Act³. I have not therefore treated the proposal as being truly self or custom build. For the reasons set out, however, I do not find the acceptability of the proposal to be reliant on this. Nonetheless, this may present implications for the application of statutory biodiversity net gain (BNG) which requires an exempt self-build development to consist exclusively of dwellings that meet the definition in the Act. While there is not detailed information before me in this respect, given the

² TPO reference TPO/AL/1/24

³ Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)

acceptance that the development is capable of achieving net gain as required by the development plan, I have no strong reason to doubt that the statutory condition would not be capable of being discharged.

18. I understand the issue of site drainage was raised under a later application on the site and I note the concerns of the Council's relevant consultee as set out by the appellant. Based on the information before me I am satisfied that a pre-commencement condition, as suggested by the Council, would be capable of securing the necessary information at an early stage of the development.
19. The site lies within the Singleton and Cocking Tunnels Special Area of Conservation (SAC) consultation zone, which is identified as supporting maternity colonies of Babastelle bats. The conservation objectives of the SAC include avoiding the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species. Based on the information before me, including the comments of the Council's Ecologist, none of the trees proposed to be removed by the development offer bat roosting suitability. On this basis, and as other trees would be retained, I am satisfied that, even adopting a precautionary approach, the proposal would not present a likely significant effect on the designated features of the SAC or undermine its conservation objectives, either alone or in combination with other projects. Conditions are included below relating to other potential effects on protected species.
20. The Council accept that it cannot demonstrate a five year land supply for housing and the provisions of paragraph 11d) of the Framework are relevant to the appeal. In terms of assessment against 11d)i. for the reasons set out, the application of policies in the Framework in respect of flood risk do not provide a strong reason for refusing the development proposed.
21. Turning to paragraph 11d)ii, the Council state the location of the development would conflict with the spatial strategy for the location of new development set out in the LP and the Aldingbourne Neighbourhood Plan by being positioned outside the defined Built Up Area Boundary. While this did not form a reason to refuse planning permission, conflict with the development plan in this way could represent an adverse impact of granting planning permission. Based on the limited information before me on this matter, and as the delivery of homes would be likely to breach those boundaries, I give the conflict with the spatial strategy moderate weight. In terms of benefits, as set out above, the proposal would deliver a new home on the edge of a settlement close to other built forms, and the site's proximity to services, facilities and public transport, would reduce the need to travel by car. These represent benefits of the proposal which attract significant weight, particularly given the local undersupply of land for homes. Overall, I find that the adverse impacts of granting planning permission here would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole and having regard to the policies listed in the footnote. That would similarly be the case even if I were to give significant weight to the conflict with the spatial strategy. The proposal therefore benefits from the presumption in favour of sustainable development set out in the Framework, and this adds weight in favour of granting planning permission. This finding is consistent with Policy SD SP1 of the Local Plan 2018, which reflects the presumption in favour of sustainable development in the Framework.

Conditions

22. The Council have provided a list of conditions which it considers would be appropriate in the event that the appeal were allowed and I have considered these in light of the tests for conditions set out in the Framework and PPG.
23. In addition to the statutory time limit condition, I have conditioned the approved drawings to provide certainty to the parties. To ensure appropriate site drainage, details of a suitable scheme are necessary and this needs to be satisfied prior to the commencement of development to ensure it is fully integrated and because a later trigger could limit the effectiveness of the measures used. Flood mitigation measures are also necessary given the risk identified and tree protection measures are necessary from the outset. To ensure compliance with the development plan, an electric vehicle charging point and a final biodiversity enhancement plan are secured. To preserve any bat movements on the site, external lighting is conditioned, as is the need for correspondence with Natural England should works impact dormice. Given the nature of the existing site, a Construction Environmental Management Plan is necessary here and, for the safety of future occupiers, a condition is imposed to cover the eventuality of unexpected contamination.
24. As intended materials are listed on the approved drawings, and given the varied character of the nearby properties, a condition requiring further details of materials would not be necessary. Given the scale of the development, and relationship to the nearest properties, neither do I find a restriction on construction hours or a condition relating to plant to meet the tests of necessity or reasonableness for the purposes of the planning permission. The site is of such a size that ample parking, refuse and cycle storage can be accommodated without requiring further conditions. Given the ambiguity of the proposed condition relating to energy efficiency and the standard required in the policy, I have not imposed such a condition. In the absence of detailed evidence as to why it would be necessary, and given the presumption against such an approach in the PPG, I have not removed permitted development rights for future extensions.

Conclusion

25. For the reasons given, having regard to the development plan and all other matters raised, the appeal is allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 24005- 01A,02A, 03A, 04, 05, 06, 07, 08.
- 3) No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- A risk assessment of construction activities that are potentially damaging to biodiversity and identification of protection zones;
- Measures to avoid or reduce ecological impacts during construction;
- Location and timing of sensitive works and details of when an ecologist may need to be present on the site, and;
- Responsible persons and lines of communication.

The construction process shall be carried out only in accordance with the approved details.

- 4) Prior to the commencement of development, full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

- Winter groundwater monitoring;
- Winter infiltration testing in accordance with BRE DG 365 or similar;
- Details of the proposed method and location of surface water disposal in accordance with the SUDS Hierarchy;
- An impermeable area plan;
- Calculations modelling for the surface water drainage network for the following storm events: 100% Annual Exceedance Probability (AEP); 10% AEP plus climate change allowance; 3.3% AEP plus climate change allowance, and; 1% AEP plus climate change allowance. All storm events must include an allowance for urban creep and surcharged outfalls where appropriate.
- Detailed drainage plans;
- Specifications for all surface water drainage components and associated infrastructure or flow control mechanisms, and;
- Any relevant permissions relating to the discharge location, works to watercourses or adoption of the SUDS scheme.

The development shall be carried out only in accordance with the approved plans. The surface water drainage system shall remain for the lifetime of the development.

- 5) Prior to the commencement of development, including site clearance, the trees to be retained on the site shall be protected in full accordance with the details shown on drawing GS344.Northfield.TRPP Version 1 dated 02.11.2024 titled 'Tree Retention and Protection Plan'. Those protection

- measures shall be maintained in accordance with those details until the construction period is complete.
- 6) The development shall be carried out in accordance with the mitigation measures set out in Section 9 of the 'Flood Risk Assessment and Drainage Strategy' ref D2312/FRA1.1 dated September 2024 by BP Civils. The development shall be maintained in accordance with those measures at all times.
 - 7) Prior to commencement of development above the damp proof course, final details of a biodiversity enhancement plan shall be submitted to and approved in writing by the local planning authority. Those measures shall be installed in full not later than 12 months following the first occupation of the dwelling and shall be maintained thereafter.
 - 8) The installation of any hard surface within the root protection area of tree T04 (as annotated on drawing GS344.Northfield.TRPP Version 1 dated 02.11.2024 titled 'Tree Retention and Protection Plan'), shall be carried out in accordance with the details specified in paragraphs 3.7 to 3.11 of the Arboricultural Impact Assessment and Method Statement by South Downs Ecology version 1 dated 2nd November 2024.
 - 9) If during the development, any visible contaminated or odorous material not previously identified is found to be present on the site, no further development shall be carried out until it has been fully investigated using suitably qualified, independent consultants. The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unexpected contamination will be dealt with must be submitted to the Local Planning Authority for approval in writing before that method statement is implemented.
 - 10) Any works which will impact the breeding or resting place of dormice shall not commence unless the Local Planning Authority has first been provided with either:
 - A licence issued by Natural England authorising the development or activity to go ahead, or;
 - A statement in writing from Natural England to the effect that it does not consider that the specified development or activity will require a license.
 - 11) Prior to the first occupation of the dwelling, an electric vehicle charging point shall be installed for use by future occupiers. This shall be maintained and be available for use at all times.
 - 12) No external lighting shall be installed to the site unless details of that lighting have first been submitted to and approved in writing by the Local Planning Authority. Those details shall demonstrate how the lighting is designed and positioned to avoid harmful effects on bat species and the lighting shall only be installed and maintained in accordance with the approved details.

End of Schedule