
Appeal Decision

Site visit made on 27 August 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th of September 2025

Appeal Ref: APP/L3815/W/25/3368848

Earnley Place, Clappers Lane, Earnley, West Sussex PO20 7JL

- 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 and Mrs C Leach of Smith Simmons & Partners against the decision of Chichester District Council.
 - The application Ref is E/24/01722/FUL.
 - The development proposed is demolition of an existing garden pavilion, and the construction of a detached dwelling, new vehicular access, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The decision notice cites conflict with Policy NE15 of the Emerging Local Plan (proposed submission; regulation 19). The Local Plan was adopted on 19 August 2025. This was anticipated by both main parties who have addressed the implications in their submissions.
3. The appellants final comments include reference to two previous appeal decisions¹. I have not considered these in my determination as the Council has not had a chance to comment on them.

Main Issue

4. The main issue is whether or not the proposal complies with local and national policy in respect of flooding, having particular regard to the sequential test.

Reasons

5. The appeal site is part of the grounds of an existing detached dwelling. Parts of the site fall within an area at risk of flooding, and neither party disputes that the sequential test must be applied.
6. The National Planning Policy Framework (the Framework) requires that strategic policies should be informed by a strategic flood risk assessment. It also states that a sequential risk-based approach should be taken to individual applications, the aim being to steer new development to areas where the risk of flooding is lowest. To this end, the Framework is explicit that development should not be permitted if there are reasonably available sites appropriate for the proposed development in

¹ Appeal Refs: APP/V2255/W/24/3350524 & APP/U1105/W/24/3357849

areas with a lower risk of flooding, and that the strategic flood risk assessment will provide the basis for applying this test.

7. Whilst the 'Flood Risk and Coastal Change' Planning Practice Guidance (PPG) states that the sequential test area will be defined by local circumstances relating to the catchment area for the type of development proposed and, as I shall address later, certain circumstances may warrant a tailored approach, there is plainly a general expectation that sequential testing be undertaken in a strategic context.
8. The appellant has applied the sequential test to the appeal site alone, rather than to any wider area. This is on the basis that, as set out in the application, the proposal involves the construction of a replacement building within the curtilage of an existing residential property to create a new dwelling, a combination described as unique. Or, as per the appellant's statement, that the local circumstances relevant to defining the test area are that the development is proposed within the curtilage of Earnley Place, which is previously developed land.
9. Using the curtilage of Earnley Place as the sequential test area does not evidently sit well with the PPG, which advises that lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'. Indeed, to my mind unless the conditions at the site, or across what may otherwise be a wider test area, are unique in such a way as to justify an intra-site test, the approach appears wholly at odds with the purpose of sequential testing.
10. I have been provided with very little reason to believe that, as an addition to the housing stock, the proposed development could only be erected in place of an existing building, in the curtilage of another dwelling, on previously developed land. Even if that were the case, I have little evidence that other sites with these characteristics, but which are outside of the flood plain, do not exist elsewhere in the local or wider area. Overall, I see very little justification for the appellant's approach to the sequential test, and do not consider it to have satisfied the requirements of the Framework.
11. My attention has been drawn to the approach taken to sequential testing in a previous appeal². However, the development proposed in that case was found to involve a comparatively small extension to existing premises, a situation which the PPG expressly identifies as justifying a pragmatic approach, where it may be impractical to accommodate the additional space in an alternative location. Those are not circumstances true of the appeal proposal before me.
12. Even if, as the appellant contends, the size of the development allowed in the previous appeal represents a significant increase in flood risk compared to the proposed development before me, the PPG is explicit that whether a proposed extension to an existing premises is to be considered 'comparatively small' is decided relative to the size of the premises, a matter the Inspector in the previous appeal considered in detail. I see no reason, therefore, why a comparison in size between the development approved in the previous appeal and that proposed in this appeal should be instructive. Overall, I attach little weight to the cited previous decision.

² Appeal Ref. APP/J2210/W/22/3308172

13. Given all the above, the proposed development does not satisfy the sequential test and, as such, would conflict with Policy NE15 of the Chichester Local Plan 2021 – 2039 (2025). It also conflicts with Section 14 of the Framework and the PPG.
14. The appellant has provided information aimed at satisfying the exception test, including a Flood Risk Assessment by CGS Civils (June 2024). However, the PPG is clear that the exception test should only be applied if the sequential test has shown there are no reasonably available, lower-risk sites suitable for the proposed development. That is not the case in this instance, and so the extent to which the proposed development may provide sustainability benefits and be safe in flooding terms do not stand to be considered.

Other Matters

15. Earnley Place is a Grade II listed building³, situated within the Earnley Conservation Area (the CA). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
16. From the evidence before me, for the purposes of the appeal the significance of Earnley Place is in its architectural features, scale, and grandeur in its setting, including its own grounds. These indicate the building's historic significance in the local area. The significance of the CA is in its picturesque, rural, and historical charm, and its modest scale.
17. Given its distinct, modern appearance, low height, and flat roof, the proposed dwelling would be readily distinguishable from, and not compete visually with, Earnley Place. Given its distance from the road, it would not be directly visible from the street. Overall, I am content that the proposal would not harm the setting of the listed building or the conservation area.
18. My attention has been drawn to the nature and extent of discussions between the main parties before the Council issued its decision. These have not influenced my determination, which is made on the merits of the proposal.

Planning Balance

19. The proposed development would result in a gain of one new dwelling on previously developed land. The potential for a net ecological gain and the economic benefits accruing from the construction phase and from ongoing occupation of the site thereafter also weigh in favour of the appeal scheme.
20. At the same time, the PPG describes the Framework as setting out strict tests to protect people and property from flooding which all local planning authorities are expected to follow. It also says that where these tests are not met, new development should not be allowed. In this context, the modest benefits of the development would not outweigh the harm identified.

³ List Entry Number 1026362.

Conclusion

21. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

A Knight

INSPECTOR