Planning Inspectorate

Appeal Decision

Site visit made on 27 October 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/Y3805/W/25/3370618
41 Overmead, Shoreham-by-Sea, West Sussex BN43 5NS

- 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 Luciano Focsan against the decision of Adur District Council.
- The application Ref is AWDM/0080/24.
- The development proposed is end-of-terrace two storey house.

Decision

1. The appeal is allowed and planning permission is granted for end-of-terrace two storey house at 41 Overmead, Shoreham-by-Sea, West Sussex BN43 5NS in accordance with the terms of the application, Ref AWDM/0080/24, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Flood Risk and Coastal Change chapter of Planning Practice Guidance (the Guidance) was updated on 17 September 2025, including changes to the sequential approach to the location of development. In the interests of fairness, the parties have had the opportunity to comment on the changes insofar as they relate to the appeal.

3. The appeal was accompanied by amended plans showing a reduced ridge height for the proposed house, matching that of the existing dwelling on the site. Having regard to the substantive test set out in *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*, I consider that the revisions would result in a substantial difference to the scheme, contrary to the advice in the Procedural Guide: Planning appeals – England. I have therefore determined the appeal on the basis of the plans on which the Council made its decision.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:

   - flood risk; and
   - the character and appearance of the area.

Reasons

Flood Risk

5. The proposal is for an end terrace dwelling at the junction of Overmead and Mill Lane.

6. The National Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Furthermore, where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

7. It is common ground that when the effects of climate change are accounted for, the appeal site is within Flood Zones 2 and 3a, with a consequent 1 in 100 year risk of fluvial flooding and a 1 in 200 year risk of tidal flooding. Additionally, the site has a low chance of surface water flooding in the 2040 to 2060 epoch.

8. In these circumstances, the Framework requires a sequential risk-based approach to be taken, with the aim of steering new development to areas with the lowest risk of flooding from any source; and, having applied the sequential test, if it is not possible for development to be located in areas with a lower risk of flooding, the exception test should be applied.

Sequential Test

9. The appellant has undertaken a sequential test in accordance with the Guidance, which advises that for a non-major housing development it would not usually be appropriate for the search area to extend beyond the specific area of a town or city in which the proposal is located. Accordingly, the search area is the town of Shoreham.

10. The appellant has been unable to identify any reasonably available sites in Shoreham at the lowest risk of flooding from any source, and the Council has not disputed the appellant's findings. As it is not possible to locate the proposal in an area with the lowest risk of flooding, the sequential test is passed.

Exception Test

11. To pass the exception test, the Framework advises that it must be demonstrated that the development would have wider sustainability benefits to the community that outweigh the flood risk. In addition, it must be demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. It must also, where possible, reduce flood risk elsewhere.

12. The wider sustainability benefits of the scheme include contributing to the Council's housing requirements. The Council cannot demonstrate a five year supply of deliverable housing sites, as required by the Framework, and in the most recent Housing Delivery Test the Council's delivery of housing was 81% of the housing requirement over the previous three years. In response, the Council's Housing Delivery Action Plan has identified that small sites need to play a greater role in housing delivery. The scheme would deliver one house in a sustainable location, which is a small but measurable contribution to the sustainability of the community.

13. The parties disagree about whether the development would be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere. WSP on behalf of the Council has queried the appellant's use of Environment Agency (EA) surface water modelling, preferring the modelling contained in the Council's Strategic Flood Risk Assessment (SFRA). However, as the SFRA is based on EA data, and as the appellant has utilised more recent data than that incorporated in the SFRA, I am satisfied that the appellant's modelling is accurate.

14. In response to WSP's concern that the EA's online mapping is based on inaccurate information, the appellant has compared the EA's mapping with topographical survey data, and confirmed that the EA's data is generally in accordance with it.

15. During a future surface water flood event in the adjacent Mill Lane, it has been demonstrated that the appeal site would not be affected, owing to the topography of the road, the predicted depth of flood water, and the height of the kerb. The appeal site would likewise not be affected during a fluvial event but would, however, be inundated to a depth of up to 60mm during a tidal event. It is proposed to mitigate against this by setting the finished floor level of the dwelling 930mm above the tidal flood level, with sleeping accommodation on the first floor which would provide a suitable refuge if required.

16. The access and egress from the dwelling during a flood event would be northwards along Mill Lane. The route would remain clear during both tidal and fluvial events, even in the event of flood defences failing. During a surface water event, although the carriageway of Mill Lane would be inundated, the pavement adjacent to the appeal site would not, thus providing safe egress. Emergency vehicles would be able to traverse the route during a flood event. The appellant has provided a draft flood warning and evacuation plan which would be supplied to future occupiers. Consequently, with regard to the more vulnerable classification of future occupiers – which could include young children and those with mobility issues – I am satisfied that safe egress would be available throughout a flood event.

17. EA modelling has demonstrated that the local surface water flow path would be largely along Mill Lane, as a consequence of which the proposal would not displace surface water, and no mitigation is required. Existing flood defences in the form of a sand and shingle beach, and timber groynes maintained by the local authority, mean that floodplain compensation does not need to be provided in respect of tidal flooding events. Therefore, flood risk would not be increased elsewhere during flood events.

18. In regard to site drainage, the appellant is willing to be bound by WSP's suggested condition requiring that the drainage hierarchy is followed, and that in the event that infiltration is not feasible, runoff rates to the surface water sewer would be restricted.

Overall

19. Based on these findings, the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. Whilst opportunities to reduce flood risk overall have not been identified, this is not a mandatory element of the exception test. In light of these conclusions, I am

satisfied that the sustainability benefits to the community outweigh flood risk. Taken together, I find that the exception test has been passed.

20. I conclude that the proposal would have an acceptable effect on flood risk and accord with Policy 36 of the Adur Local Plan 2017 (ALP). Policy 36 requires schemes to include safe access and escape routes where required, be safe for their lifetime taking account of the vulnerability of their users, not increase flood risk elsewhere, reduce flood risk overall where possible, and give priority to sustainable drainage systems.

Character and appearance

21. The proposal is for an end terrace dwelling on a prominent street corner. Whilst the dwelling would be set further towards Mill Lane than nearby dwellings, there are sufficient examples of dwellings located close to the road that the proposal would not appear cramped or overbearing. The elevation facing Mill Lane would match the gable end of the existing dwelling, and contain two windows to maintain an active frontage, with sufficient space to provide landscaping at the junction of Mill Lane and Overmead.

22. The proposed dwelling's finished floor level, as well as its eaves and ridge, are proposed to be approximately 750mm higher than the existing dwelling, which is itself part of a terrace of three dwellings of similar height. The increased height is a response to the identified flood risk. As Overmead is built on a shallow gradient, there are already levels changes between existing properties, notably between Nos 38 and 39. Although such changes generally occur in gaps between properties rather than where properties are linked, levels changes are nonetheless an established part of the road's character. The finished floor level of the proposed house would be only slightly above Mill Lane, and would blend with existing properties on that road. I therefore do not consider that the raised levels of the proposed dwelling would be incongruous or out of character.

23. I conclude that the proposal would have an acceptable effect on the character and appearance of the area and accord with Policy 15 of the ALP. The policy requires development to be of a high architectural quality and respect and enhance the character of the site, and the prevailing character of the area.

Other Matters

24. The Council has acknowledged that it cannot demonstrate a five year supply of deliverable housing sites or comply with the Housing Delivery Test, and I have therefore had regard to the wider sustainability benefits of providing an additional dwelling. However, as the proposal accords with the development plan as a whole and there are no material considerations to the contrary, there is no need to consider Paragraph 11 of the National Planning Policy Framework.

25. The current overgrown condition of the appeal site has been raised by interested parties, but has played a neutral part in my decision-making. The presence or otherwise of a covenant requiring the front garden of the existing dwelling not to be used to park cars does not have a bearing on the outcome of the appeal.

26. The proposal does not make provision for offsite car parking, on the basis of a parking survey showing that there is sufficient on-street parking available nearby. The Council has accepted this evidence, and I see no reason not to do likewise.

No evidence has been provided that the proposal would block visibility splays at the junction of Mill Lane and Overmead.

27. The proposal would result in a loss of green space, but it is on private land and does not provide a public benefit.

28. Regarding foul drainage, Southern Water has raised no objection and indicated that the developer could make a formal application for a connection to the foul sewer.

Conditions

29. The Framework sets out that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested list of conditions on this basis.

30. It is necessary to confirm the standard time limit for the development, and to specify the approved plans and drawings, for the avoidance of doubt and in the interest of certainty.

31. In the interests of highway safety and living conditions, a construction management plan, including hours of working, should be submitted for approval before development commences.

32. It is necessary to attach a pre-commencement condition requiring the submission and approval of a surface water drainage scheme which responds to the drainage hierarchy and demonstrates that there would be no increase in flood risk. The strategy needs to be approved before development commences so that it can be fully integrated into the development.

33. A condition is required to ensure that the approved drainage scheme is satisfactorily maintained and managed in the future.

34. To ensure that the key recommendations of the flood risk assessment are implemented, conditions are needed to set a minimum finished floor level for the dwelling, and to ensure that a final version of the flood warning and evacuation plan is approved and made available to future residents.

35. As the proposal would not increase flood risk elsewhere, it is not necessary for mitigation measures in respect of displaced surface water to be provided.

36. In the interests of sustainability, energy efficiency measures should be incorporated in the dwelling.

37. To protect the character and appearance of the area, details of external facing materials, hard and soft landscaping and boundary treatment should be approved.

38. Details of bicycle storage should be submitted for approval, to ensure that the dwelling meets local standards in this respect. It is not necessary to condition refuse storage arrangements as these are shown on the appellant's plans.

39. As the site is on a prominent corner, it is prudent to remove permitted development rights, to ensure that the future alterations do not have an overbearing impact.

Conclusion

40. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

J Heppell

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 464/A3/01D (Existing and Proposed Location Plans), 464/A2/02F (Existing and Proposed Block Plans, Elevations and Sections), 464/A2/03F (Existing Plans, Elevations and Section) and 464/A2/04J (Proposed Plans and Elevations).

3) Development shall not begin until a construction management plan has been submitted to and approved in writing by the local planning authority, including hours of working. The development shall be undertaken in full accordance with the details approved.

4) Development shall not begin until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme must prioritise the use of source control sustainable drainage systems (SuDS) in consideration of the Non-Statutory Technical Standards for SuDS, and demonstrate no increase in flood risk as a result of the proposed development, with sufficient supporting evidence provided to support its viability including supporting calculations for the 100% AEP (1 in 1 year), 3.33% AEP (1 in 30 year), 3.33% AEP (1 in 30 year) plus climate change, the 1% AEP (1 in 100 year) and the 1% AEP (1 in 100) plus climate change critical storms.
The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any infiltration drainage. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

5) The development hereby approved shall not be occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The local planning authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
   a) a timetable for its implementation.
   b) details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
   c) a management and maintenance plan for the lifetime of the development which shall include details of design life and the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its

lifetime. This will include the name and contact details of any appointed management company.

6) The finished floor level of the dwelling shall be set no lower than 6.29 metres AOD, unless otherwise first approved in writing by the local planning authority.

7) Prior to first occupation, a flood warning and evacuation plan shall be submitted to and approved by the local planning authority, and made available to future occupiers of the dwelling.

8) No development above ground level shall take place until a scheme of energy efficiency measures has been submitted to and approved by the local planning authority. The dwelling shall incorporate the approved measures.

9) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

10) No development above ground level shall take place until a scheme of hard and soft landscaping including boundary treatment has been submitted to and approved in writing by the local planning authority. Before the development is first occupied the landscaping works shall be carried out in accordance with the approved details and implementation programme.

11) No development above ground level shall take place until details of bicycle storage have been submitted to and approved by the local planning authority. The approved storage shall be provided prior to occupation and thereafter kept available for bicycles.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B or E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of schedule