Planning Inspectorate

Appeal Decision

Site visit made on 10 December 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2026

Appeal Ref: APP/Y3805/W/25/3374094
Land to the west of 2 Brighton Road, Lancing BN15 8RH

- 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 Peter Creasey against the decision of Adur District Council.
- The application Ref is AWDM/0095/25.
- The development proposed is erection of two bedroom chalet bungalow.

Decision

1. The appeal is allowed and planning permission is granted for erection of two bedroom chalet bungalow on land to the west of 2 Brighton Road, Lancing BN15 8RH in accordance with the terms of the application, Ref AWDM/0095/25, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Flood Risk and Coastal Change chapter of Planning Practice Guidance (PPG) was updated on 17 September 2025, after the Council had refused planning permission. Both main parties' appeal submissions have had regard to the updated guidance, which includes changes to the sequential approach to the location of development. The Council indicated that on the basis of the updated guidance and the appellant's new evidence, it was not defending the reason for refusal relating to flood risk insofar as it related to the sequential test.

3. The Environment Agency released an updated flood mapping dataset in 2025 known as NaFRA2. The Environment Agency has confirmed that the appellant's flood risk assessment incorporated the new dataset.

4. Whilst not in the description of development, the proposal is for a self-build dwelling, and on this basis an exemption from the biodiversity net gain (BNG) condition was sought. The appellant entered into a deed of unilateral undertaking under s106 of the Town and Country Planning Act 1990 to seek to secure the dwelling as self-build. The appellant subsequently entered into a second, amended, deed.

Main Issue

5. The main issue in this appeal is the effect of the proposal on flood risk.

Reasons

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. Environment Agency (EA) mapping identifies the appeal site as being within Flood Zone 3, with a high probability of tidal flooding. The proposed residential use is classified as More Vulnerable. 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

8. The PPG advises that a proportionate approach should be taken when using the sequential test to steer new development to areas with the lowest risk of flooding, and that the test need not be applied where occupiers would remain safe from current and future surface water flood risk for the lifetime of the development[1]. The appellant has argued that as the proposal mitigates against all sources of flood risk, the sequential test is not applicable. However, the risk in this instance is posed by tidal flooding rather than surface water flooding, and therefore the proposal is subject to the sequential test.

9. For a non-major housing development, the PPG advises that it would not usually be appropriate for the area of search to extend beyond the specific area of a town or city in which the proposal is located, or beyond an individual village and its immediate neighbouring settlements.[2] Accordingly, the area of search is the village of Lancing. The appellant has been unable to identify any reasonably available sites in Lancing at the lowest risk of flooding from any source, findings which the Council has not disputed. 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

10. 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.

11. The wider sustainability benefits of the scheme include contributing to the Council's housing requirements. The scheme would deliver one house in a sustainable location, which makes a small but measurable contribution to the sustainability of the community. The proposal would deliver a self build home, of which there is a shortage according to the Council's Strategic Housing Market Assessment 2020. It would also provide employment opportunities during the construction phase and household expenditure after construction.

12. The finished floor level of the dwelling would be above the worst case flood event, taking into account climate change, and would incorporate a freeboard allowance to counter wave action. The site is protected by existing tidal flood defences, and in an exceedance event where overtopping occurred, overland flows would be

[1] Paragraph: 027 Reference ID: 7-027-20220825
[2] Paragraph: 027a Reference ID: 7-027a-20220825

eastwards along the main road next to the site. Sleeping accommodation is proposed on the first floor, with flood resilience and resistance measures incorporated into the build. Future occupants would be signed up to the EA's Floodline Warnings Direct service, giving them maximum warning of future flood events so as to be able to implement mitigation strategies. Consequently, the proposal would be safe for its lifetime, taking into account the vulnerability of its users.

13. A flood defence wall would be constructed around the southern, western and eastern boundaries of the site, providing a defence against wave action and seaborne spray, with a flood gate providing direct access to the beach. The flood defence wall would improve protection of the road and nearby properties from the risks associated with tidal surges and storm conditions. The proposal would therefore reduce rather than increase flood risk elsewhere.

14. In common with neighbouring properties, surface water would discharge direct to the shingle beach, where it would permeate. The drainage system would be designed to prevent flooding during a flood event, ensuring that no part of the site would be vulnerable to surface water flooding. Full details of the surface water drainage strategy could be conditioned.

15. Based on these findings, the development would be safe for its lifetime taking account of the vulnerability of its users, and would reduce flood risk elsewhere. The sustainability benefits to the community therefore outweigh flood risk, and the exception test is passed.

Overall

16. I conclude that the proposal satisfies the sequential and exception tests, and would have an acceptable effect on flood risk. The proposal would accord with Policy 36 of the Adur Local Plan 2017 (ALP) which, although not referred to in the Council's reason for refusal, requires development in areas of flood risk to be flood resistant and resilient, be safe for its lifetime, not increase flood risk elsewhere, reduce flood risk where possible, and give priority to sustainable drainage systems.

Other Matters

17. The Council cannot demonstrate a five year supply of deliverable housing sites, as required by the Framework, with the Council indicating that it has 3.2 years supply and the appellant indicating 3.3 years supply. 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 Framework.

18. There have been three previously refused applications for a dwelling on the site, two of which were subsequently dismissed at appeal[3]. The first refusal predated the adoption of the ALP, and was therefore determined under a different policy regime. Whilst I have not been supplied with the plans of the two more recent schemes, the Council's Officer Report makes it clear that whilst the Inspector in each case accepted the principle of development, the proposals were for larger dwellings which did not reflect the character of the area. I am satisfied that the current

[3] LPA references ADC/0177/07, AWDM/0813/23 and AWDM/1541/23

proposal responds appropriately to the size and appearance of nearby dwellings and reflects the character of the area.

19. Concerns about the impact of a new dwelling on coastal change and biodiversity were not upheld by either Inspector in the two recent appeals, and I am satisfied that no harm would result in this regard from the current proposal. Whilst the site does not provide access to the beach, the EA has advised that it has a right of way immediately adjacent to the rear of the site to move and replenish shingle as part of its beach management operations, which must be kept clear at all times to facilitate the movement of heavy plant. A construction management plan is capable of controlling such matters. It is for the appellant to factor into their design the effects of heavy plant movement immediately adjacent to the development.

20. The adjoining dwelling has a rooflight and a first floor terrace close to the boundary of the appeal site. Given the massing of the dwelling and the location of its windows, it would not result in loss of light or privacy to the adjoining dwelling.

21. Noise and air quality during the construction phase can be controlled by condition, as can the risk of machinery blocking neighbouring driveways. The precise scheduling of construction work and making good any damage are private matters.

22. I have not been presented with evidence that the additional traffic from one house would cause congestion or highway danger.

23. The size and ownership of the appeal site have been disputed, but no evidence has been provided to contradict the ownership certificate which was submitted with the appeal.

Biodiversity net gain

24. BNG is required under the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (the Act), inserted by the Environment Act 2012. Self-build and custom build proposals qualify for an exemption under Paragraph 17 of Schedule 7A, provided the development consists of no more than 9 dwellings, is on a site that has an area no larger than 0.5ha, and consists exclusively of dwellings that are self-build or custom housebuilding. The proposal satisfies the first two criteria, being less than 9 dwellings and on a site of less than 0.5ha. Regarding the third criterion, a planning condition to secure the dwelling as self-build would not meet the tests set out in the Framework, and so the appellant has offered a planning obligation, which they subsequently amended.

25. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 58 of the Framework provide that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I am satisfied that an obligation in this instance satisfies the three tests. The obligation provides that the initial owner of the property, which is the appellant, would reside at the property for at least three years. As the appellant has commissioned the scheme and applied for planning permission, it is clear that the initial owner will have had primary input into its final design and layout, in accordance with the PPG[4] and the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

[4] Paragraph: 016 Reference ID: 57-016-20210208

26. Therefore, the proposal satisfies the requirement for BNG in Schedule 7A of the Town and Country Planning Act 1990.

Conditions

27. 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.

28. 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.

29. To ensure that the EA has access to the beach beside the appeal site at all times, and in the interests of highway safety and neighbouring living conditions, a construction management plan, including hours of working, should be submitted for approval before development commences. The plan must be approved before development commences so that it can be in place when construction begins.

30. In accordance with the key recommendations of the flood risk assessment, conditions are needed to set a minimum finished floor level for the dwelling and that sleeping accommodation is on the first floor. It is also necessary that a flood warning and evacuation plan is approved and made available to future residents.

31. In the interests of sustainability, energy efficiency measures should be incorporated into the dwelling.

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

33. In the interests of highway safety and sustainable transport, adequate provision needs to be made for car and cycle parking.

34. To maintain the character of the area and prevent overdevelopment of the plot, permitted development rights for extensions, additional storeys, roof extensions and outbuildings should be removed.

35. Notwithstanding that the A259 has been identified as an area of increased traffic noise, the Building Regulations require noise mitigation measures to be incorporated into the design of the dwelling, meaning that a condition covering such matters is unnecessary.

36. It is not necessary to control foul drainage as the appellant has a right to connect to the sewerage system.

Conclusion

37. 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 0640.PL.100B (Location and Block Plans, Proposed Floor Plans and Sections), 0640.PL.101A (Proposed Elevations North & South) and 0640.PL.102A (Proposed Elevations East & West).

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) The finished floor level of the dwelling shall be set no lower than 6.30 metres AOD, with all sleeping accommodation on the first floor.

5) 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.

6) 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.

7) 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.

8) 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.

9) No part of the development shall be first occupied until car and bicycle parking have been constructed in accordance with the approved plans. These spaces shall thereafter be retained at all times for their designated purpose.

10) 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, AA, B or E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of schedule