



# Appeal Decision

Site visit made on 24 January 2022

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 July 2022**

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**Appeal Ref: APP/F4410/W/21/3284244**

**Mawson Green Cottage, Mawson Green Lane, Sykehouse, Goole DN14 9AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Mark and Alex Adam against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 21/00102/FUL, dated 12 January 2021, was refused by notice dated 28 May 2021.
  - The development proposed is change of use of campsite and amenity block to garden and ancillary granny annex.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council has adopted the Doncaster Local Plan 2021 (the Local Plan) since making its decision on the planning application. Based on the evidence before me, the Local Plan replaces the policies of the Core Strategy 2012 and the Unitary Development Plan 1998. Both the Council and the appellants have had the opportunity to comment on the Local Plan, and I have proceeded to determine this appeal on the basis of the adopted development plan.
3. The appellants have provided further evidence in respect of flood risk with their final comments. I requested that relevant consultees should be given further opportunity to respond to this evidence, as should the Council and the appellants with regard to any further comments. This consultation has been undertaken, and I have had regard to the comments raised.
4. Subsequent to the submission of the appeal, the Council has revoked its suite of Supplementary Planning Documents (SPDs), including the Flood Risk SPD referred to in the reasons for refusal. The Transitional Developer Guidance 2022 (TDG) has replaced the Flood Risk SPD. The appellants have been given the opportunity to comment on this matter.

## Background and Main Issues

5. The appeal site consists of part of a campsite with an amenity block. The description of the proposed development indicates that the amenity block would be used as a granny annex, which the appellants submit would be ancillary to their main dwelling located in the vicinity. The Council's reasons for refusal primarily relate to flood risk, although the concerns on this matter arise from whether the proposal would in fact be an annex or a separate dwelling

and the form of accommodation on the ground floor. On that basis, the main issues in this appeal are:

- Whether the proposal would lead to the creation of a separate dwelling; and
- Flood risk.

## **Reasons**

### *Whether separate dwelling*

6. The appeal site is part of an extensive area of land which contains the appellants' dwellinghouse, substantial utility buildings, and the area of the campsite including the amenity block which is the subject of this appeal. Planning permission for the campsite was granted in 2016 and subsequently implemented, although the appellants explain that this has now ceased to operate.
7. The appellants submit that the proposal would result in the appeal site reverting back to garden land forming part of the existing residential planning unit, and would be a residential annex tied to the main dwelling. However, the Council refers to the planning history of the area which indicates that the appeal site was previously part of a field rather than residential curtilage.
8. The appellants own the appeal site as well as the main dwelling. However, the appeal site is distinctly separate. It is set within a separate plot of land and has its own access to the highway. The substantial buildings between the site and the main dwelling emphasise this degree of separation.
9. It may be that residents of the appeal proposal could use facilities within the main dwelling, such as at meal times. However, there is no certainty that this would be the case as the proposed conversion would also provide facilities, including a kitchen, which would enable the building to be used as a separate dwelling. The appeal site would also have a separate access to the highway and a garden area, and the Council also refers to separate utilities.
10. Whilst there is a path linking the appeal site to the appellants' house, this is not of a form and arrangement which indicates that the proposal would be functionally linked to the main dwelling or would be ancillary to it. Viewed objectively and in context, the path does not negate the distinctly separate and self-contained nature of the appeal site.
11. As a matter of fact and degree, I conclude that the proposal would in effect lead to the creation of a separate dwelling, and should be assessed on that basis in respect of flood risk. In other words, I find on the evidence before me that the proposal would not be integral to or part and parcel of the primary use of the appellants' main dwelling.
12. I have considered whether it would be appropriate to use a condition limiting the occupancy of the building to the appellants' family. The Planning Practice Guidance on the appropriate use of such conditions states that "*There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission*". However, whilst I acknowledge the circumstances of the appellants' relative, based on the evidence before me these are not of such an exceptional nature as to justify an occupancy condition.

13. Even if there was substantive evidence to demonstrate a reasonable functional relationship with the main house, I am mindful that any such functional link would be very difficult to monitor due to the self-contained nature of the proposal. Furthermore, it is entirely possible that there may be pressure to amend or remove a condition should the personal circumstances of the appellants and their family change.
14. I therefore conclude that the proposal would in effect create a separate dwelling unit. I also conclude that limiting occupancy by means of a condition would not be reasonable or enforceable for the reasons stated previously.
15. On that basis, the proposal should be assessed as relating to a new dwelling when considering matters of flood risk.

#### *Flood Risk*

16. The appeal site is within the 'High Risk' Flood Zone 3. The use of the building as a dwellinghouse would fall within the 'More Vulnerable' flood risk classification. The existing use of the appeal site and the adjacent area as a camp site also falls within the 'More Vulnerable' risk class. It is common ground between the main parties that the Sequential and Exceptions Tests do not need to be applied in this case as the proposal is for a change of use and would not create any additional floorspace.
17. However, comments raised by the Council and consultees including the Environment Agency (EA) identify that the site is within a residual risk area at risk from a breach of flood defences. The site is within a day hazard category classified as 'danger to most', and could experience flood depths of 1.0-2.0m above ground level arising from a breach in defences. More specifically the EA identifies that a flood level could reach an internal depth of 1.69m, which could be higher allowing for climate change. The EA highlight that the proposal includes ground floor sleeping accommodation which would be unsuitable at those depths of flooding.
18. The appellants have provided a Flood Risk Assessment (FRA) in support of the planning application, and an FRA Addendum which sought to address comments raised by the EA. The FRA and Addendum emphasise that the proposal is for an annex to an existing dwelling representing minor development, and that it would not be proportionate, reasonable or necessary to require a breach analysis for that scale of development. However, I have concluded that the proposal would in effect be for a new dwelling. It is therefore appropriate to assess flood risk on that basis. The concerns of the Council and consultees in respect of whether the FRA and Addendum are a sufficient basis to assess flood risk are therefore well founded.
19. The appellants have provided evidence that the flood depths would be significantly lower, although given the concerns of the EA in respect of the approach to understanding residual (breach) risk and climate change, I am not persuaded that the appellants' evidence is robust.
20. In respect of the range of flooding events, the EA's concerns on the lack of a breach assessment and allowances for climate change are clearly set out. Given that the proposal would lead to the creation of a new dwelling, I consider that the evidence provided by the appellants is not sufficient to fully assess the proposal in respect of Flood Risk.

21. The appellants emphasise that the proposal would not change the flood risk classification of the site, as both the existing camp site and the proposed dwelling would be within the 'more vulnerable' classification. I have also had regard to the Planning Practice Guidance which states that a change in use may involve an increase in flood risk if the vulnerability classification of the development is changed. However, that does not indicate that a change of use within a vulnerability classification means that the consideration of flood risk should be set aside. This is a matter of public safety where a precautionary approach is reasonable. Simply relying on broad flood risk vulnerability classifications is not appropriate, and an assessment of the form of development proposed should be undertaken.
22. The nature of occupation arising from the dwellinghouse which would result from the proposal would be materially different to the existing permitted camp site. As has been set out by the EA, a camp site would not provide permanent residential accommodation, and could therefore be closed and/or evacuated allowing campers to return to their permanent residences. However, if the appeal proposal was affected by flooding it is likely to take time and expense to return it to a habitable condition. This is particularly due to the lack of accommodation above the ground floor. Although there may be dwellings in the vicinity where the residents of the appeal proposal could be evacuated to, this would not address the proposal's poor resilience to the effects of flooding due to the ground floor accommodation proposed.
23. Flooding would affect the existing building in its permitted use as an amenity block for the camp site, and in the event of flooding there would be costs associated with the renovation of the building for that use as well as interruption to the business. However, the use of the building as a dwelling would require residents to seek alternative accommodation following a flood, and the resilience of the building therefore raises different issues compared to the extant use as a camp site.
24. The appellant refers to potential planning conditions which could require mitigation measures such as raising the bedroom floor level, a refuge within the loft space, and a wall or banking around the site. While it may be possible to create a refuge with an appropriate escape route in the roof space, it would not be sensible to add to the number of permanent dwellings in this area which may be affected by flooding, thereby adding to the demands of the emergency services at the time of a flooding event. It has not therefore been demonstrated that mitigation measures would be effective given the depths of flooding referred to by the EA. A wall or banking may also affect flood levels and or divert flood flows, and while these effects may potentially be minor they have nonetheless not been adequately modelled.
25. I conclude that it has not been suitably demonstrated that the proposal would provide safe residential accommodation in respect of flood risk, with due regard to residual (breach) risks, climate change and flood risk resilience. The proposal would therefore be contrary to policies 1, 44 and 57 of the Local Plan regarding the consideration of challenges arising from flood risk, including flood resistance and resilience, climate change, and residual flood risk. The proposal would also be contrary to the National Planning Policy Framework (the Framework) with regards to planning and flood risk, including in respect of avoiding inappropriate development in areas at risk of flooding, and the management of residual flood risk. The proposal would also be contrary to the

advice of the TDG which seeks to ensure that development is safe with regards to Flood Risk.

26. The appellants submit that the proposal would not conflict with policy 25 of the Local Plan which relates to the re-use and conversion of buildings in the countryside. However, this policy does not specifically address flood risk, and this does not lead me to a different conclusion in respect of this main issue.

### **Other Matters**

27. A lawful development certificate has been granted for the siting of a mobile home for use as a granny annex within the curtilage of the main dwellinghouse. As a mobile home intended for permanent residential use this would have a 'highly vulnerable' flood risk classification, in comparison to the 'more vulnerable' classification of the appeal proposal. The appellants emphasise that this fallback position is more than a theoretical alternative as the appellants' relative is currently residing in a caravan on the appellants' land.
28. However, if I was to accept the appellants' argument in respect of the fallback position of a mobile home or caravan annex, applied consistently, this would be a perverse incentive for property owners in areas at risk of flooding to propose such an annex as a method of justifying a dwellinghouse. Whilst a dwellinghouse may be of a lower risk classification than a residential mobile home as set out in Annex 3 of the Framework, it is not appropriate to use this alternative as a method of circumventing valid concerns in respect of flood risk and matters of public safety. In any event, the fallback position of the mobile home is materially different to the appeal proposal, as it is common ground that the lawful development certificate relates to an annex whereas I have concluded that this appeal would result in a separate dwelling.
29. It has also not been demonstrated why the existing dwelling or other buildings in the appellants' ownership could not be used to provide suitable accommodation for the appellants' relative, including sleeping accommodation above ground floor level. This further detracts from any weight I can give to the mobile home annex as a fallback.
30. The appellants refer to the potential to provide ground floor sleeping accommodation in the existing dwelling which would not require planning permission. But this is a theoretical proposition, and does not justify the provision of ground floor sleeping accommodation in a new dwelling. In any event, I would be surprised if the appellants were to provide additional sleeping accommodation on the ground floor of the existing dwelling when a flood risk is evident.
31. The proposal may have benefits compared to a mobile home or caravan due to the re-use of an existing building, greater energy efficiency and limiting surface water run-off. However, these matters are not sufficient as to outweigh the concerns I have identified in respect of flood risk.

### **Conclusion**

32. For the reasons given above I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR