



Appeal Decisions

Hearing Held on 17 January 2024

Site visits made on 17 January 2024 and 22 February 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/E2001/C/22/3295667 ('Appeal A')

Land north of Red Cottage, 1 Weel Road, Tickton, Beverley, East Riding of Yorkshire HU17 9RY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr James Stewart against an enforcement notice issued by East Riding of Yorkshire Council.
 - The enforcement notice was issued under ref 18/00776/UNUSE on 24 February 2022.
 - The breach of planning control as alleged in the notice is *Without planning permission, the unauthorised change of use to residential caravan site and the storage of vehicles, plant, machinery and equipment associated with the occupants various landscaping businesses. Associated operational development to facilitate the unlawful use including the creation of hardstanding and fencing.*
 - The requirements of the notice are to:
 - (a) Cease the use of the Land as a residential caravan site;
 - (b) Cease the use of the Land for the stationing of caravans and remove all caravans from the Land;
 - (c) Dismantle and remove all sheds, cabins, steps, patios, porches, drainage pipes and electricity boxes and connections from the Land;
 - (d) Remove all domestic goods and chattels from the Land;
 - (e) Cease the use of the Land for the storage of vehicles, machinery and equipment, other than those reasonably necessary for the purposes of agriculture;
 - (f) Remove all vehicles, machinery and equipment from the Land, other than those reasonably necessary for the purposes of agriculture;
 - (g) Remove the hard standing from the Land; and
 - (h) Remove all fencing from that part of the Land shown edged green on the attached plan.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/E2001/W/20/3244130 ('Appeal B')

Land west of 1 & 2 Weel Road, Tickton, Beverley, East Riding of Yorkshire HU17 9RY

- 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 James Stewart against the decision of East Riding of Yorkshire Council.
 - The application Ref 18/03060/PLF, dated 12 September 2018, was refused by notice dated 24 September 2019.
 - The development proposed is the change of use of land to gypsy caravan site and storage of vehicles, machinery and equipment within existing barn including hardstanding, construction of earth embankment and erection of ancillary amenity block (part retrospective).
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Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with a variation as set out below in the Formal Decision.

Preliminary Matters

1. I issued a pre-hearing note on 23 February 2023 raising questions about flood risk, nutrients and the contents of the notice, and identifying what appeared to me to be the main issues in the appeal. A hearing then scheduled for May 2023 was subsequently vacated and the hearing convened on 17 January 2024.
2. That hearing was not closed because by the end of the day it was clear that further information as to flood risk would be required, and an exchange of correspondence followed about that whilst the hearing stood adjourned. The hearing is now closed.
3. During the hearing on 17 January 2024 I attended the site in the company of both main parties. I visited the site's environs again on 22 February 2024 including the embankments of the nearby River Hull. The site itself was largely unchanged since the time of the hearing on 17 January, with the main change being the deposit of a large quantity of hardcore material upon the field next door to the east, which does not form part of the appeal site.

Main Issues

4. The Council's reason for refusing planning permission in 2019 related to the impact of the development on the character and appearance of the area. That remains a main issue in both appeals.
5. Since then, and reflected in the enforcement notice, the Environment Agency's flood risk mapping has reassigned the appeal site into Flood Zone 3, in which the development of permanent caravan sites is usually not permitted. The effects on the safety or living conditions of the site occupiers resulting from flood risk is thus now a main issue in the appeals. Additionally, the notice alleges that the creation of hardstanding on the site results in increased flood risk elsewhere. This element was not pursued in any detail in the Council's statement of case but it is relevant to the application of the Exception Test on the issue of flood risk.
6. The Council's notice alleges that the development amounts to 'intentional unauthorised development'. Whether it was, and if so what weight to attribute to this factor, is a further main issue in the appeals.
7. The Council does not dispute that the occupants of the site are Gypsies or Travellers to whom the national policy found in Planning Policy for Traveller Sites ('PPTS') would apply. It was said at the hearing, contrary to the assertion in the appellant's statement of case, that all the occupants of the site have ceased travelling, although it was not made clear why. Nonetheless in the absence of any more detailed information I have no reason to disagree with the Council's approach.
8. To the extent that I conclude that the development is contrary to the provisions of the development plan for the area, it will be necessary to consider whether there are material considerations that might warrant a decision that is not in accordance with the development plan. The provision of Traveller sites and the outstanding need for them is a further main issue, as is the availability or

otherwise of any alternative sites to which the current occupants of the site might resort.

9. The personal circumstances of the site's occupiers, their Human Rights and the best interests of the children living on the site are also main issues in the case.
10. National policy has undergone some changes since the planning application was refused and the enforcement notice issued, with the PPTS last updated on 19 December 2023 and the National Planning Policy Framework ('the Framework') last updated on the following day. Both these latest updates preceded the appeal hearing and I am satisfied that the parties have had the opportunity to address the relevant changes. Changes to the Planning Practice Guidance ('PPG') have been made more recently than the hearing, but I am satisfied that no changes arise that are relevant to my considerations about whether permission should be granted.

Reasons

11. The Council's policy to provide for the needs of Gypsies and Travellers is H3 of the East Riding Local Plan Strategy Document, adopted in April 2016. It sets out that the Council will seek to meet the need for 63 new pitches over the course of the plan period, with 25 pitches to be allocated to ensure supply over the first five years. Broad locations for new sites in years 6–15 are then given.
12. Section C provides that proposals on non-allocated sites should be considered against the most up-to-date needs assessment. However, consistently with the PPTS, it was agreed at the hearing that the criteria-based policy in section D should be applied irrespective of any identification of need.
13. The criteria of section D of policy H3 are silent as to the application of other policies in the Local Plan. Paraphrasing, they require that proposals for new Gypsy and Traveller sites should be (1) located where there is access without a private car to essential facilities; (2) adequate in size for the number of pitches; (3) capable of being provided with adequate on-site services and facilities; and (4) be located in lower flood risk areas.
14. The Council's only objection to compliance with the criteria of section D of policy H3 arises in respect of the fourth criterion, relating to flood risk. The policy itself is silent as to any impacts a development might have on the character or appearance of an area: these considerations arise in relation to policies ENV1: integrating high quality design and ENV2: promoting a high quality landscape. Policy S4: supporting development in villages and the countryside supports certain forms of development in the countryside where the intrinsic character of their surroundings is respected, but those forms do not include Gypsy or Traveller sites which are considered separately by policy H3.

Effects on flood risk

15. The Framework provides that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Development should only be allowed in areas at risk of flooding where, in the light of a site-specific flood risk assessment and the application of the sequential and exception tests, it can be demonstrated that the most

vulnerable development is located in areas of lowest flood risk within the site; that the development is appropriately flood resistant and resilient; that it incorporates sustainable drainage systems; that any residual risk can be safely managed; and safe access and escape routes are included where appropriate as part of an agreed emergency plan. Annex 3 of the Framework is a flood risk vulnerability classification, identifying caravans and mobile homes intended for permanent residential use as 'highly vulnerable'. In Flood Zone 3, this means that such development should not normally be permitted.

16. The sequential test is aimed at steering new development to areas of lowest flood risk: development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas of lower risk. To this end, the appellant has submitted a 'Sequential Test' document by reference to the Council's SPD of 2021 relating to flood risk, requiring evidence of the area of search; the alternative sites identified within that area; and an assessment and explanation of whether they are at lower flood risk and reasonably available. That SPD is consistent with the East Riding Local Plan policy ENV6: Managing Environmental Hazards.
17. For individual planning applications, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. Here, the Council consider that the appropriate search area is the Beverley housing market sub-area. The appellant has not suggested a different approach, although it is not clear why a wider search area was not considered. The occupants have moved from a site near York and have not identified a particular need to be close to Beverley. Nonetheless the Sequential Test document submitted does review the availability of some sites outwith the Beverley area.
18. It concludes that there are no sites allocated for the development of gypsy pitches or with planning permission for such use within the Beverley sub-area, finding as a consequence that there are no alternative sites that are reasonably available within the appropriate search area whether or not at lower flood risk than the appeal site. At the hearing the appellant referred to having enquired of all existing Gypsy or Traveller sites in the area and been told of five year waiting lists.
19. The Council's SPD however does not restrict the search to sites that are allocated or with planning permission, and nor does the PPG advice, which identifies 'reasonably available sites' as those in a suitable location with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. Paragraph 3.44 of the SPD sets out that the Council would expect applicants to consider sites that are capable of accommodating the proposed use unless they would result in abnormal development costs and provided they are not contrary to other planning policies. Paragraph 3.46 goes on to say that applicants should refer to the allocations document and monitoring reports. It advises that applicants should undertake a market search if no or few reasonably available alternative sites are identified from these documents.
20. The Sequential Test document makes reference to having carried out a market search, which appears to have been limited to reviewing two websites at the time of the document's preparation rather than at any other point in the two years since the notice was issued, or by any wider efforts including by

enquiring of local land agents. The document concludes that there is no land on the market which is available and affordable for development as a gypsy/traveller site. It does not say what land is on the market, and exactly why what land there is has been discounted as unavailable.

21. The PPG advises that the relevant decision maker needs to consider whether the sequential test is passed, with reference to the information it holds on land availability. Such information is not available to me except where provided during the course of the appeal. The Council pointed out at the hearing that land beyond Flood Zone 3 (and also outside the Green Belt) is plentiful in the area; but none was specifically identified to me as being available as an alternative site to accommodate the development.
22. Nonetheless the evidence relating to the market search and the reasons for discounting other land are insufficient to allow me to conclude that the sequential test is passed. The market search does not appear to have been sufficiently investigative; and the reasons for discounting any land that is on the market are not sufficiently justified.
23. If however the sequential test were to be passed, it would then be necessary to apply the exception test. Even if the exception test were passed, the development here would still not be supported by planning policies: the local policy H3 of the East Riding Local Plan Strategy Document of April 2016 is supportive of new Gypsy and Traveller sites where located in Flood Zone 1 wherever possible, before considering sites in Flood Zone 2. Sites in Flood Zone 3 are not supported, consistently with national policy.
24. The PPG advises that the exception test should only be applied if the sequential test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered. Thus although I have found the sequential test not to be passed, it is the case that it has not shown any reasonably available alternative sites. Thus I shall consider the exception test. The Framework requires that it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. These requirements are repeated in the Council's SPD.
25. The site-specific flood risk assessment ('the FRA') supplied by the appellant was expressly disavowed by his representative at the hearing; or at least the parts of it that were unhelpful to his case. Instead, reliance was sought to be placed on a recent site-specific assessment for a site nearby, relating to a different development not of high vulnerability ('the solar farm FRA'). The late introduction of this document resulted in the adjournment of the hearing to allow for the Council's consideration of it.
26. The FRA noted that the Framework classifies residential development as More Vulnerable to flood risk (which it does, in the main) but did not address the appeal development's classification as 'highly vulnerable' and thus not normally permissible in Flood Zone 3. It and the solar farm FRA describe the nearby waterbodies, topography and ground conditions of their relevant sites.
27. The principal waterbodies are identified on Figure 1 of the FRA, being the River Hull, around 200m west of the site, the Beverley and Barmston Drain around

- 100m west of that, the Turf Gutter around 100m west of the site and 'Drain A' which runs immediately adjacent to the site's southern boundary and east through the remainder of the field between Weel Road and Main Street. The River Hull appears to constitute the principal flooding risk. It is a perched watercourse which, it was explained to me at the hearing by the Environment Agency, has challenging characteristics for the purposes of modelling which is why the appeal site has alternated between Flood Zones 1 and 3 as a result of iterative updates over the past decade or so. The 2013 modelling (resulting in the Flood Zone 1 categorisation) did not model a breach of the defences.
28. Those defences are presently in 'fair' condition as recorded by the solar farm FRA, differing in respect of the appellant's own recording of asset ID 26658 as being in 'poor' condition, to a standard of protection of 20 years. The PPG advises that the condition of flood defences should be initially ignored, and that information on the probability of flood defence failure is unsuitable for planning purposes given the substantial uncertainties involved in such long term predictions.
 29. Several walls and an embankment adjoin or are integral to the eastern bank of the River Hull, with the eastern embankment being slightly higher than the western one. The crest levels of these assets range between 4.25m AOD to 4.49m AOD. In the absence of modelling, applying the peak in-channel water level for the River Hull during the 1 in 100 AEP event plus climate change results, says the FRA, in a flood level of 4.04m AOD. Existing ground levels on site are between 1.4m and 2.8m AOD, with the land generally falling from the site towards the river.
 30. Accounting for ground levels, maximum flood depths on site of between 1.44m and 2.64m in the event of a defence failure are potentially anticipated by the FRA. The appellant criticises this aspect of his own FRA essentially because this anticipates the same water level on the site as the maximum predicted level of River Hull with its defences intact. This is unrealistic, says the appellant, first because the Environment Agency have previously accepted that any breach would be above the height of the defence wall at 3.5m (giving rise to a difference between 3.5m and 4.04m) and secondly because any breach would result in water flowing and rapidly spreading out at decreasing depth. Reference was made to the solar farm FRA which concluded that any breach of the River Hull defences was unlikely to result in flood waters at their site exceeding 300mm in depth.
 31. The solar farm FRA noted that a more severe allowance for climate change should be given than the existing 1 in 100 probability flood event including 20% climate change, but that it was not feasible to undertake further flood modelling for their own small development. An additional allowance of 150mm was applied to the 4.04m AOD for the solar farm FRA. Such an allowance has not been applied to the FRA.
 32. The topography of the solar farm site is similar to that of the appeal site but it lies another 100m or so further away from the river. Further modelling was not carried out to assess the flood risks to that development, which was of a less vulnerable commercial building and not of a highly vulnerable permanent residential caravan site. Thus although I share the appellant's circumspection as to the anticipated flood levels at the appeal site arising from his own FRA, I do not have sufficient information, arising from the solar farm FRA which is not

- a site-specific assessment relating to the appeal site, to be satisfied that the development at the appeal site would be safe for its lifetime. The Environment Agency are of the view that any FRA for highly vulnerable development would work to a determined, actual, breach level and not an assumed level in order to demonstrate this aspect.
33. As to whether the development is expected to affect flood risks elsewhere, the appellant's FRA states that this is not the case, but there has been no assessment of the changes made to the ground surface of the site, both by the extensive laying of hardstanding and by the bund that has been formed (although that is due to be removed). It was contended at the hearing that the whole site has been built up and gravel put on top, so containing a void giving water storage capacity. However on observation there was no obvious change to the ground levels at the site and I cannot be confident that this is the case.
34. The FRA also required the implementation of an appropriately designed surface water drainage scheme to enable any potential overland flows to be conveyed safely across the site without affecting property. Whilst suggestions were made at the hearing about how this might be achieved, there is no designed scheme before me.
35. As to the FRA's recommendations for mitigation measures, there is as yet no draft of a flood evacuation plan. As Weel Road itself is also vulnerable to flooding this omission is of particular concern, although it could potentially be the subject of a planning condition. There is no evidence of the advice of the emergency services having been sought, as suggested by the Government's Technical Guidance on the issue. The requirement to provide an area of safe refuge capable of accommodating the maximum number of potential residents on site via a raised mezzanine that is set above 4.10m AOD has not been addressed. It was suggested at the hearing that this could be achieved by using the existing cottages. These appeared derelict at the time of my visit and their safety for such a purpose is unknown; they appeared too small to comfortably accommodate the number of residents (presently 26); and I have no evidence that such upper floors as exist are above 4.10m AOD. They are also outwith the site, presently separated from it by close-boarded fencing and a drainage ditch.
36. In summary I am not prepared to rely on the solar farm FRA in relation to the aspects that are more helpful to the appellant's case than his own FRA. He criticises the Environment Agency for relying on his own FRA to determine the effect of a breach, but this is the consequence of the requirement to produce a site-specific flood risk assessment. The appellant's FRA does not demonstrate that the development will be safe for its lifetime. Insofar as it recommends measures to ensure safety, insufficient steps have been taken by the appellant to demonstrate that these are achievable.
37. Therefore, and although the question of any wider sustainability benefits will be considered elsewhere in this decision, neither the sequential test nor the exception test is passed in relation to flood risks and this weighs very strongly against the grant of permission.

Character and appearance

38. The site lies adjacent to, and set below, the A1035 which is the main road leading eastwards away from Beverley towards the coast. There is a general

rectangle formed by the A1035, the River Hull, Weel Road and Main Street, and the appeal site forms an approximate square in the centre of it. The square of land to the east through which 'Drain A' runs remains mostly undeveloped although with cottages to the roadside. To the west, there is now some development on the adjoining field although it remained largely laid to grass when I observed it. Further beyond, between that field and the public house lying adjacent to the river, is a wooded field containing facilities for summer tourist caravanning.

39. The area is fairly verdant with some tree cover from the main road to the site although this is partly achieved as a result of planting atop an unauthorised bund running approximately north to south behind the easternmost caravans on the site. Land beyond the 'rectangle' is not undeveloped: a commercial estate lies opposite the site entrance with an active frontage between there and the River Hull. Eastwards, on the south side of Weel Road, two agricultural fields separate the commercial estate from the built up settlement area of Tickton which contains facilities and services including a small shop and primary school. No landscape designations apply.
40. West of the River Hull development continues, with some further commercial development and then a succession of mainly detached dwellinghouses. The development is principally to the south side of Hull Bridge Road (an apparent continuation of Weel Road, interrupted by the river bridge) but not exclusively, with the public house and a dwellinghouse on the opposite side of the river both lying to the north.
41. The Council's objection is that the development, comprising a number of caravans, commercial vehicles and hardstanding, is out of character with the surrounding semi-rural landscape and is harmful to the visual amenities of the area and the intrinsic character of the land's surroundings. I am unable to agree with this given the preponderance of other development in close proximity, the ability, especially given the relative land levels, to successfully screen the site from the A1035 and the spaciousness within the site to achieve additional soft landscaping.
42. Being close to the village of Tickton, within walking distance of its facilities and services, and only some two or three miles from the centre of Beverley itself, the site is very well located for a development of its kind and I detect no conflict with the requirements of paragraphs 25 or 26 of the PPTS, or with any of the criteria of policy H3 save for that relating to flood risk. As the Reverend Beynon said at the hearing, were it not for the flooding issue the site is highly suitable. As to the particular policies cited in support of this reason for issuing the notice and refusing planning permission, I find there to be no inherent conflict with the character of the area or the requirement to integrate the development sensitively within the existing landscape. Such matters can be achieved by the requirements of an appropriate landscaping scheme which could be made the subject of relevant planning conditions. I find no conflict with the development plan on this main issue.

Need, supply and alternatives

43. An updated Gypsy and Traveller Accommodation Assessment ('GTAA') was published in December 2022 giving an assessment to 2039. It identifies a need for 29 pitches for persons meeting the then-applicable PPTS definition over the period, with a further 'cultural' need of 32 pitches. By the date of the hearing it

appeared that there were around six pitches and an allocation for 13 by an expansion of the Cottingham site. The Council claims a 4.2 year supply which includes this expansion, the six pitches granted and the expected turnover in the period. The appellant expressed some scepticism about this supply, for reasons including the absence of progress at Cottingham and the high turnover rates. There appears to be a particularly high turnover in Bridlington, with the appellant suggesting that a preference for bricks and mortar housing being expressed by some occupants because the caravan offer is so poor, which fails to facilitate the gypsy way of life.

44. Looking forward, the GTAA anticipated that need will be met over the plan period principally by turnover, by the potential development or expansion of existing site, and by the reappraisal of unauthorised sites which would include this one.
45. In the round it is clear that the Council lacks a 5 year supply of sites, with its current supply somewhere in the region of four years but with some uncertainty as to turnover and the reasons for it. What is also clear is that when pitches become available, they tend to do so in smatterings of one or two at a time. The extended family here has referred to a history of living together and a desire to continue doing so. Insofar as this amounts to a need, there is no suggestion of a site becoming available to accommodate the entire family group in the near future. No specific alternative sites were identified by any party.
46. The PPTS provides that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration when considering applications for temporary planning permission. The application and deemed application here seek permission on a permanent basis but nonetheless the lack of a 5 year supply and the absence of any identified alternative sites each attract moderate weight in favour of the development.

Personal circumstances, interests of the children and Human Rights

47. There are presently 26 occupants of the appeal site in six different households and with nine children enrolled in the local primary school at Tickton. I have no reason to think that their attendance at school is other than good, or that they are not settled there. Some of the children are now approaching secondary school age and one intends to enrol at a school in Beverley. For several children the site is the only home they have ever known.
48. The families have lived together as a cohesive unit both before and since moving onto the site, with considerable interdependence and support. Most households contain children; those that do not (and some of those that do) contain one or more adults with medical conditions requiring hospital treatment in Hull. One adult is recovering from major surgery. Additionally, some of the children have ongoing conditions requiring hospital supervision.
49. The family have attended a church in the area since moving in 2018 and the Reverend Beynon, and a local resident, spoke at the hearing in support of the appeals and the interests of the households in continuing to live on the site as a cohesive unit. The family have worked hard to convert what was an abandoned plot of land into a home and put it to good use.

50. The appellant has made no alternative plans if the appeals are dismissed, and thus a roadside existence is a risk of such an outcome.
51. The best interest of children are a primary consideration, and no other factor in the appeal is inherently more important. My attention is also drawn to human rights considerations arising from the European Convention requiring the protection of property (A1P1) and respect for the home and private life (article 8). To dismiss the appeals would be to interfere with these qualified rights. This is justifiable where there is a clear legal basis for the interference, which in this case would relate to the regulation of land use in the exercise of development control measures, and the interference is necessary in a democratic society. I consider below whether this is the case. It is also necessary not to deny the right to education (A2P1). I am also mindful of my duties to facilitate the way of life of gypsies and travellers, and to eliminate discrimination, promote equality of opportunity and foster good relations where relevant protected characteristics arising under the Equality Act 2010 are concerned. I am mindful of all these matters in reaching my conclusions.
52. There is no evidence that such matters were considered by the committee refusing planning permission for the development, and they are not mentioned in the Council's reasons for issuing the enforcement notice. The Council's statement of case merely states that the weight to be attributed to personal circumstances and human rights is a matter for me: no case is made about these matters.

Intentional unauthorised development

53. The Council's notice points out that Government policy states that intentional unauthorised development is a material consideration to be weighed in the balance. The appellant was forced to leave a previous site near York because it closed down, and moved onto this one because it was in his ownership. The Written Ministerial Statement sets out the Government's concern about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission, where opportunities to limit or mitigate harm might not be available and where local authorities may have to take time consuming and expensive enforcement action.
54. The appeal site at the time the appellant (and other occupants) moved onto it was categorised as being in Flood Zone 1. The appellant made a planning application which was refused for reasons relating to the development's effects on the character and appearance of the area. I have found that those effects can be adequately mitigated by the imposition of relevant planning conditions. Although the parties concentrated at the hearing on the relevant supply of sites and potential alternatives in 2024, rather than in 2018 when the development took place, I have heard no suggestion that the appellant had any realistic alternative to the appeal site when the move was made. That was at a time when there would not have been any insuperable planning objection to the development. In those circumstances I do not find that the fact of the development having been known by the appellant to have been unauthorised attracts any adverse weight in the appeals.

The Planning Balance

55. The appeal site lies in Flood Zone 3, at high risk of flooding, and I have found that neither the Sequential Test nor the Exception Test has been satisfied. Even

if it were otherwise, because of the high vulnerability of the development, it would not normally be permitted in Flood Zone 3 and it is contrary to the development plan for the area in relation to this important aspect.

56. There are a number of significant countervailing considerations. I have no doubt that a settled existence on such a well-located site, within walking distance of a primary school, would be in the best interests of the children involved, some of whom have known no other home. The availability of medical facilities within easy reach is also a significant consideration in favour of the development, given what I heard about this need at the hearing. The absence of alternative sites, including those that would allow the co-location of the six households, means that there is a real risk of a roadside existence if the appeals are dismissed and the notice upheld. This would constitute a serious interference with the occupants' qualified rights to their homes and family life and attracts significant weight in favour of allowing the appeals. The general shortage as to a five year supply of sites also attracts moderate weight in favour of the development. The overarching compliance with policy H3 in all respects save as to flood risk weighs positively in favour of allowing the appeals. The scope to achieve suitable landscaping treatment to successfully integrate the site into its surroundings means that there is no conflict with those relevant aspects of the development plan and attracts some weight.
57. The family's integration into the community since moving onto the site, including by attendance at school and at church is a positive aspect of the development and to allow the appeals would further the aims of the Equality Act.
58. I attach no weight to the development having been intentionally unauthorised, principally for the reason that at the time it was carried out I have found there to have been no overriding planning objection to it. The Flood Zone 3 categorisation came later.
59. Ultimately, although I share the appellant's circumspection as to the assessments of his FRA to some degree, it is nonetheless the only document put before me which assesses the specific flood risks to this site. It concludes that the site is at a high risk of fluvial flooding in the event of a breach to the eastern defences of the River Hull, and anticipates flood depths of up to 2.64m on the appeal site if that were to happen.
60. The FRA points out that the adjoining A1035 would be flood-free even under such a scenario but anticipates that it would be accessed via Weel Road and Main Street. Weel Road would itself be at flood risk in such a scenario. The FRA finds it is unfeasible to mitigate the risk of what it describes as an unlikely scenario via hard measures such as land raising. Instead it suggests focussing on a warning and evacuation plan and providing an area of safe refuge. There is no evacuation plan before me to consider, and no proposed safe refuge about which I can be satisfied. Thus I am unable to conclude otherwise than that the development would constitute highly vulnerable development attracting very substantial weight against the appeals.
61. Neither party sought a personal or temporary permission but I have given consideration to these. It appears in respect of the relevant flood defences that they are presently in a 'fair' condition but with a standard of protection of 1 in 20. Thus I cannot be satisfied that the site is not at high risk of flooding even in the short term and so, although I would attribute significant weight to the

supply shortfall I would still not be satisfied that a permission should be given even temporarily.

62. I have considered whether the imposition of planning conditions could overcome the objections to the development, but I cannot be satisfied that the matters necessary to deal with the flooding risk would not result in a different development warranting fresh consideration, given the potential need for land raising or at least for the provision of a safe refuge for the site's 26 occupants. Therefore I am unable to conclude otherwise than that the appeals should be dismissed.

The enforcement appeal on ground (g)

63. Further time is sought by the appellant to comply with the requirements of the notice beyond the six months presently stated, in order to secure alternative accommodation and avoid homelessness. No party has identified an alternative site to which the site's 26 occupants might resort, and giving sufficient time to find a site so as to minimise the risks of a roadside existence is important. The prospect of the flooding objections to the development being overcome by more detailed assessment and mitigation measures resulting in a fresh planning application is one I cannot discount. I am also particularly mindful of the need to secure continuity of the children's education where possible and thus a compliance period falling at the end of an academic year would be optimal in order to cause least disruption if a school move is required.
64. Whilst the physical works of removing the mobile homes, vehicles and hardstanding and restoring the site should be manageable within the six months given by the notice, such a period is unlikely to avoid disruption to the children's education or to give sufficient time in which to find a suitable alternative site so as to avoid living by the roadside. Notwithstanding the flooding risk, I therefore consider the six months given by the notice to be an unreasonably short period. I shall extend the period to 15 months to allow for the completion of the next academic year.

Conclusions and Formal Decisions

65. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application under Appeal A and shall dismiss the appeal under Appeal B.

Appeal A

66. It is directed that the enforcement notice be varied by deleting "6 (six)" from paragraph 6 of the notice and replacing it with "15". Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

67. The appeal is dismissed.

Laura Renaudon

INSPECTOR

APPEARANCES

For the appellant: Philip Brown, planning consultant

James Stewart, appellant

Catherin Stewart, site resident

Reverend John Beynon, King's Church Beverley

Ali Tekge, local resident

For the Council: Hazel Walsh, Planning Enforcement Team Leader

Daniel Allen MRTPI, Principal Planning Officer

Heloise Wood, Senior Planning Policy Officer

David Piercy, FCRM Advisor, Environment Agency

Aaron Miles, Planning Advisor, Environment Agency