



---

# Appeal Decision

Site visit made on 25 September 2024

**by Mr R Walker BA HONS DIPTP MRTPI**

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

**Decision date: 9 October 2024**

---

**Appeal Ref: APP/U2750/W/24/3348323**

**Half Moon House, Long Street, Topcliffe, North Yorkshire YO7 3PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Lee Wainwright against the decision of North Yorkshire Council.
  - The application Ref is ZB23/01809/FUL.
  - The development proposed is change of use from domestic outbuilding to use as a holiday let accommodation.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the proposal is an acceptable form of development having regard to its flood zone location.

## Reasons

3. The appeal site includes an outbuilding to the rear of Half Moon House, positioned adjacent to a caravan park and near the River Swale. The site is located within flood zone 3, as identified by the Environment Agency (EA). The application is accompanied by a flood risk assessment (FRA).
4. Detailed guidance on what should be provided with FRAs is found within the Flood risk and coastal change Planning Practice Guidance. This includes, amongst other things, data from the EA, which should be used to inform mitigation such as detailed flood data; flood defence locations and attributes; data on past flood events; and modelled flood levels and extents. The submitted FRA refers to a historical flooding event in 1992. However, it does not provide evidence of this event or any other historic flooding events, or any detailed flood data such as the extent of the modelled flood zone with levels.
5. The FRA refers to some levels in Ordnance Datum Newlyn (ODN) rather than in metres Above Ordnance Datum (AOD), the latter of which is used for modelling. In the appellant's grounds of appeal, the same figures are then supplied in AOD without an explanation as to why. This confusion is exacerbated by the conflicting figures. Section 8 of the FRA refers to a proposed floor level of 20.05 OD(N). This contrasts with section 2 where it states that the existing levels are 20.50 OD(N). The grounds of appeal confirms that this should be 20.50 but gives the figure this time in AOD. Together, these discrepancies undermine the robustness of the FRA, particularly in the absence of a topographical survey.

6. Amongst other mitigation measures, it is proposed to raise the floor levels of the existing building as part of the change of use by 300mm, although the appellants suggest that 400mm would also be agreeable. However, considering my findings in relation to the level of detailed evidence and data, and the discrepancies I can not be satisfied that the mitigation measures outlined in the FRA would be effective.
7. Moreover, the National Planning Policy Framework (2023) (the Framework) states that flood risk must be considered on the basis of risks now and in the future (paragraphs 165 and 168). To this end, there is no firm evidence before me that any allowances have been made for climate change in the mitigation proposed. Taken together, I can not be satisfied that the development would be safe for its lifetime and that it would be appropriately flood resistant.
8. I therefore conclude that the proposal does not represent an acceptable form of development having regard to its flood zone location. As such, I find conflict with the requirements of Policy RM2 of the Local Plan and the provisions of the Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things, that where a site-specific flood risk assessment is required, the proposed development will only be supported where the assessment shows that the site will be protected adequately from flooding or the scheme will incorporate appropriate flood defences or other flood risk management measures.
9. I have been referred to a FRA, which was accepted by the EA at Broken Banks, Topcliffe. However, from the evidence submitted in the appeal, the FRA included a topographical survey, measurements based on AOD, referred to historic flood event mapping (which was stated in the FRA as being included with it but is not in the evidence before me), and a finished floor level 600mm above the existing level. In this regard, the two cases can be distinguished, and this does not justify accepting the FRA submitted in the appeal scheme, given my findings on it.
10. The appellants are willing to work with the Council and the EA. However, it is not the purpose of the appeal system to evolve a scheme, and concerns regarding the processing of the application, including communication are not matters for my consideration. In this regard, I have considered the appeal on its own merits based on the evidence before me.
11. The Council has not objected to the proposed development in relation to the site's location within the Conservation Area and I have no reason to reach a different conclusion. The absence of harm in relation to this or other considerations are neutral matters. Given the modest scale of the development any social and economic benefits from the scheme would be small.
12. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

*Mr R Walker*

INSPECTOR