
Appeal Decision

Site visit made on 21 June 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/F4410/C/24/3354005

Land Adj Mawson Green Cottage , Mawson Green Lane, GOOLE, DN14 9AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mark Adam against an enforcement notice issued by the City of Doncaster Council.
- The notice was issued on 27 August 2024.
- The breach of planning control as alleged in the notice is: *Without planning permission, the unauthorised material change of use from a campsite with amenity block in accordance with Planning Permission Reference 16/00018/FUL to use as a single residential dwelling and domestic garden.*
- The requirements of the notice are to (i) permanently cease the use of the Land for residential occupation and domestic garden; and (ii) carry out remedial alterations to the amenity block shown on an accompanying plan so that it accords with planning permission 16/00018/FUL.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: the appeal is dismissed and the enforcement notice upheld.

Preliminary Matters

1. The appellant's appeal statement indicated that he was supplying both an updated Flood Risk Assessment, and a completed Unilateral Undertaking concerning an existing mobile home on adjacent land (also owned by the appellant). Neither of these documents have come to light and my decision is based on those documents that have been supplied. I do have sight of a previous Inspector's decision in relation to an application for a similar proposal to that now under consideration which deals (among other matters) with what the parties, and the statutory consultee, then said on the matter of flood risk.
2. Although the notice refers to the breach of control apparently having occurred within the previous ten years, the time for taking enforcement action here appears to me to be subject to transitional provisions. Those provisions preserve the previous four year limitation period for a material change of use of a building to that of a single dwellinghouse where the change occurred prior to 25 April 2024. Nonetheless there is no suggestion that the change occurred before 27 August 2020, and the appellant has not sought to appeal on the ground (ground (d)) that the Council served the enforcement notice out of time.

Main Issues

3. The Council objects to the development on the grounds of unacceptable flood risk, and hence that is the main issue in the appeal. In order to assess that issue, however, it is necessary to ascertain exactly what development has occurred. The parties appear in some agreement that the considerations applying to ancillary or

expanded residential accommodation within an existing planning unit consisting of a dwellinghouse that already exists might be somewhat different from those applying to a new independent dwellinghouse. I shall determine that matter as a preliminary question to my assessment in relation to the flood risks.

Reasons

Nature of the development

4. The notice alleges a material change of use to that of a single residential dwelling. The appellant, who is professionally advised, does not contest that allegation by raising any ground of appeal other than ground (a) against the notice. The appropriate way of contesting the allegation would have been to raise an appeal on ground (b) in order to dispute the facts alleged in the notice, but this has not happened.
5. This therefore disposes of that question, but in deference to the lengthy arguments put forward by the appellant I shall nonetheless address the issue.
6. The appellant refers to a lawful development certificate granted recently which would provide for the stationing of a mobile home in the garden of Mawson Green Cottage, which lies adjacent to the appeal site, for occupation as residential accommodation by a family member as an annex to the primary residential use of Mawson Green Cottage itself. The appellant proposes, by way of a Unilateral Undertaking pursuant to section 106 of the 1990 Act (as amended), to relinquish the benefit of that certificate.
7. Even if that Undertaking had been supplied, from the appellant's description of what it would do it would not necessarily prevent the stationing or occupation of any other caravan at Mawson Green Cottage, and more to the point it would not secure any particular connection of the dwelling under appeal to that property. I am not informed that it would require that it could be occupied only by related persons or that it would prohibit any separate sale of the property. In any event, the Undertaking has not been supplied and so I am unable to take it into account.
8. The appellant suggests that those matters could be dealt with by way of a planning condition, but on that I have no good reason to disagree with the previous Inspector, who found that the personal circumstances of the present occupier of the dwelling were not of such an exceptional nature as to justify imposing an occupancy condition.
9. It was clear from my site observations that the appeal dwelling is a separate and independent dwelling. It is sited some distance from Mawson Green Cottage and has its own access and post box. At the time of my visit a car, mobility scooter and a mobile home were in its driveway. Although reference was made in the previous appeal to a path between the two properties, at the time of my visit the appeal property was fenced off from the adjoining property with a 'no entry' sign on the dividing gate. A vehicle servicing and repair business appears to operate in between the two residential properties.
10. Notwithstanding that the appeal dwelling is currently occupied by a close relative of the appellant, and that there may be a considerable degree of factual interdependence between those family members, the appeal dwelling is so situated that it is of the nature of a new independent dwellinghouse. The land it

occupies was formerly a campsite and is not within the pre-existing curtilage, or other garden area, of Mawson Green Cottage but is on an unrelated plot of land. Although I understand the appellant to own the appeal site and to reside in Mawson Green Cottage, I am not informed of any planning conditions or legal agreement applying to the campsite permission that required the plots to remain in single ownership. The campsite appears to have operated for a substantially different and unrelated purpose as a separate planning unit and I do not find the planning unit to have since been 'united' with the introduction of the existing use.

Flood Risk

11. In the absence of any flood risk assessment submitted by the appellant or any comments from the Environment Agency on the matter, I have very little to go on if I am to disagree with the Council's assessment here.
12. It appears that it is accepted that the appeal dwelling lies within Flood Zone 3, wherein a new dwelling constitutes a 'more vulnerable' development which would not normally be permitted. The appellant points to the fallback position of a mobile home in the garden of Mawson Green Cottage. Whilst a mobile home occupied permanently would constitute a 'highly vulnerable' use for flooding purposes, thus attracting even further discouragement under flood risk policies, this clearly applies to mobile homes that are a principal residence. Here, the certificate of lawfulness is not for a mobile home that may be occupied independently but only as overspill accommodation to the main house of Mawson Green Cottage. As I do not accept that the appeal dwelling is similar overspill accommodation, but would be an independent dwellinghouse in its own right, the two are not comparable.
13. A 'more vulnerable' use is not usually permitted in Flood Zone 3. No information has been supplied to suggest that either the 'Sequential' or 'Exception' Tests could be overcome. It does not appear that any new housing has to be located in this Flood Zone. The development does not appear to be safe for its lifetime and no wider sustainability benefits to the community have been identified.
14. Therefore the development is contrary to the Council's policy as it applies to development in areas at risk of flooding, and this weighs very heavily against allowing the appeal.

Other Matters

Precedent

15. The appellant draws my attention to examples of residential development elsewhere that have been permitted in the same Flood Zone. The property at West Lane appears not to have increased the number of residential units, providing for the replacement of a residential chalet with a barn conversion. It therefore differs from the appeal proposal which increases the number of residential units.
16. The Council have not responded to the appellant's case in relation to the other cases of residential development and I am uncertain why a flood risk assessment was not required in the 'prior approval' case of Manor Farm. The appellant has supplied the Council's decision notice but not any delegated report and so I am unable to ascertain why prior approval as to flooding risks was not required.
17. The case of Half Acre involved the subdivision of an existing dwelling into two, and it was recognised that this would result in the intensification of residential use. The

fact of the pre-existing residential use and the provision of at least one bedroom at upper floor level in both proposed new dwellings were sufficient to say that the proposal was acceptable on flood risk grounds. Those matters also distinguish the development there from the current proposal, where there is no pre-existing lawful residential use and there is no upper floor before me for current consideration.

Human Rights

18. Clearly the notice, if upheld, would interfere with the occupier's home and private life. What is also clear however is the intention to house the occupier in the 'certified' mobile home in the grounds of Mawson Green Cottage if the appeal is dismissed. I am therefore satisfied that the occupier is unlikely to be made homeless as a result of dismissing the appeal. In the case of a flooding event, the evacuation arrangements to the principal residence described for the appeal property could be expected to apply equally to occupation of the mobile home. The interference with Convention rights, both of the occupier and of the appellant, is necessary and proportionate. No appeal has been raised on ground (g) although it is of course open to the Council to extend the period for complying with the notice's requirements if that is appropriate.

Re-use of redundant buildings

19. The campsite, permitted in 2016, has now closed and the appeal building is therefore redundant. Local Policy 25 is generally supportive of the re-use of such redundant buildings as a matter of principle, but that policy has to be read with the detailed considerations applicable under other policies such as Policy 57 relating to flood risk. It appears that the appeal dwelling could not be made suitable on flood risk grounds without adding a further storey to it, which might itself fail criterion A of Part 1 of Policy 25 requiring any conversion not to need significant works, extension or alteration.

Conclusion

20. For the reasons given above, and having regard to all matters raised by the parties and by the occupier of the appeal property, I conclude that the appeal proposal is contrary to the development plan for the area and the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

21. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR