
Appeal Decision

Site visit made on 12 August 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/C2741/W/25/3366714

Poppleton Lakes, Boroughbridge Road, York YO26 8JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Roger Wood against the decision of City of York Council.
 - The application Ref is 24/01751/ERC.
 - The development proposed is for the change of use from café (usage Class E) to 1 no. dwellinghouse (usage Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity, I have amended the description of development above, by removing those elements which do not relate to acts of development.
3. Under Article 3(1) and Class MA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses), subject to limitations set out in Paragraph MA.1 and the conditions at Paragraph MA.2.
4. Where an application is made for a determination as to whether prior approval is required for development, Paragraph W provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.
5. Before prior approval under Class MA can be evaluated, it is necessary to determine whether or not the proposal falls to be considered as permitted development. The Council accept that the building qualifies as permitted development under this class, and I find nothing that contradicts this conclusion.
6. Of relevance to this appeal, prior approval will be required where, as set out in Paragraph MA.2 (2) (c) there are flooding risks in relation to the building.

Main Issue

7. The Council has objected to prior approval being granted on account of the flooding risks in relation to the building and therefore the proposal does not meet the conditions set out at Paragraph MA.2 (2) (c).
8. Accordingly, the main issue is whether prior approval should be granted with regards to flooding risks in relation to the building.

Reasons

9. The appeal building is a single storey, brick-built property which was previously used as a café. Part of the building is in use as a holiday let. The building sits alongside another detached property of similar architectural style which is in residential use. A further residential property known as the caravan is located to the south of the appeal site. The site comprises part of a recreational fishing facility, which is located off the A59 to the northwest of York and adjoins the York to Harrogate railway line. I observed that there are earth bunds several metres high along the eastern and western boundaries of the wider site.
10. The appeal site is within Flood Zone 3 and therefore assessed as being at a high probability of flooding. The proposal is for a residential dwelling, which is considered to be a more 'vulnerable' land use as set out in the National Planning Policy Framework (the Framework). As an application for prior approval, the proposal is not expected to meet the sequential (and subsequently exception) test. However, the Framework and Planning Practice Guidance (PPG)¹ requires that a site-specific flood risk assessment is submitted which demonstrates that development is appropriately flood resistant and resilient and that any residual risk can be safely managed.
11. A FRA² was submitted as part of the application, however this utilises generic flood risk data from the Environment Agency (EA) and does not meet the requirements for a site-specific flood risk assessment as set out in the PPG. Therefore, the FRA does not provide adequate information on how future occupants would be kept safe from flood hazards, including requirements for emergency planning during flood events, over the lifetime of the development. Moreover, the FRA does not include appropriate flood mitigation measures including finished floor levels or utility infrastructure. Therefore, the FRA does not provide sufficient information to demonstrate that the proposal is acceptable in flood risk terms. The EA have objected to the proposal on this basis. Consequently, based on the submitted evidence, I am not satisfied that the appellant has provided sufficient information on the flooding risks in relation to the building.
12. The appellant has suggested that a condition could be attached to any permission which requires the installation of flood doors which are effective for up to 600mm of flooding, air brick covers and non-return valves. However, as the appellant has not provided detailed, site-specific information relating to how a range of flood events would affect people and property, I am not satisfied that these mitigation measures would be adequate. Even so, as the flooding risks in relation to the

¹ Paragraph: 020 Reference ID: 7-020-20220825

² Undertaken by Alan Wood and Partners dated September 2004

building are a condition for prior approval this is not a matter that should be dealt with by way of a condition.

13. I acknowledge that the other part of the dwelling was granted permission for residential use in 2012 and that the appellant has lived at the site for some time, regularly maintains drainage on the site and has not experienced any flooding incidents. Nevertheless, development proposals in areas of high probability of flood risk must be dealt with in accordance with up-to-date national planning guidance, which considers risk to people and property over the lifetime of development. I have considered the appeal on this basis.
14. The appellant has referred me to the costs being incurred in relation to Council Tax associated with the caravan. However, this is not a matter for me in the determination of this appeal.
15. In conclusion, based on the submitted evidence I am not satisfied that the appellant has provided sufficient information to enable the decision maker to fully understand the flooding risks in relation to the building. Therefore, the proposal would not comply with the condition set out at Paragraph MA.2 (2) (c) of the GPDO and prior approval should not be granted.

Conclusion

16. For the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR