
Appeal Decision

Site visit made on 21 October 2025

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2025

Appeal Ref: APP/U2235/W/25/3368299

Waterman Quarter Cottage, Waterman Quarters, Headcorn, Kent TN27 9JJ

- 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 John Jewsbury against the decision of Maidstone Borough Council.
 - The application Ref is 25/500822/FULL.
 - The development proposed is described as “application for part retrospective planning permission for the change of use of outbuilding to provide a holiday let, including outdoor shower and compost toilet, as well as the installation of drainage system”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development indicates the application is part-retrospective and the application form states that the development has commenced but has not been completed. During my site visit I observed the development appeared to be as shown on the submitted plans. Nevertheless, and for the avoidance of doubt, I have determined this appeal on the basis of the submitted plans.
3. On 17 September 2025 the Planning Practice Guide (PPG) in respect of flood risk and coastal change was updated. The appellant and Council were provided with the opportunity to comment on the changes, and I have taken any comments received into account in reaching my decision.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the development having regard to flood risk; and
 - the effect of the development on ecology.

Reasons

Flood risk

5. The appeal site is within Flood Zone (FZ) 3, which is defined by the PPG as having a high probability of flooding from rivers and the sea. Annex 3 of the National Planning Policy Framework (the Framework) sets out that sites used for holiday or short-let caravans and camping are *more vulnerable* in areas of flood risk.

6. The Framework sets out that inappropriate development in areas at risk of flooding should be avoided by adopting a sequential risk-based approach to direct development away from areas at highest risk. The updated PPG affirms that the sequential test should be carried out in accordance with the requirements of the Framework. However, it states that in applying paragraph 175 of the Framework a proportionate approach should be taken. It goes on to state that where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development, without increasing flood risk elsewhere, then the sequential test need not be applied. However, in this instance, as the flood risk does not arise solely from surface water, this exemption does not apply.
7. Where the sequential test is applicable, it is only where this demonstrates that it is not possible for development to be located in zones with a lower risk of flooding that the exception test may have to be applied. To pass the exception test it must be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the risk of flooding, and that the development will be safe for its lifetime without increasing flood risk elsewhere, and where possible reducing flood risk overall.
8. Paragraph 176 of the Framework advises that proposals for a change of use will not require a sequential test except for any such proposal involving a change to a caravan, camping or chalet site or to a mobile home or park home site where sequential and exception tests should be applied as necessary. The Flood Risk Assessment (FRA) sets out that the development is classified as minor development and is exempt from the sequential test. However, the Council contends that the scheme relates to the change of use of an existing timber chalet type building to a holiday let, which is undisputed by the appellant.
9. On the basis that the development relates to a change of use of a chalet style holiday let, the sequential and exception tests should be applied as appropriate. No evidence has been submitted that demonstrates the appellant has undertaken the sequential test. In the absence of any detailed analysis and background information to inform the sequential test, I cannot reach a firm conclusion on the reasonable availability of other sites suitable for the development which are located within an area at lower risk of flooding. Accordingly, in the absence of this basic evidence, I cannot be satisfied that there are no sequentially preferable sites available in areas of lower flood risk, and, as a result, the sequential test has not been passed.
10. Furthermore, the submitted FRA does not meet the requirements set out in the PPG as it fails to adequately assess the flood risks posed by the development and provide sufficient details to demonstrate that the development would not be at, or increase, risks of flooding. Irrespective of whether the site has been known to flood in the recent past, the finished floor levels (FFL) of the holiday let are below the 100-year design flood event level which indicates that there is a risk of shallow internal flooding during this event and is inappropriate for sleeping accommodation at ground floor. This risk increases accounting for projected climate change flood levels.
11. The FRA considers the incorporation of flood resilience measures to mitigate flooding associated with the site and a flood evacuation plan has been developed which has been reviewed by the Council's Flood Resilience Officer. However, while mitigation and evacuation measures would be considerations in the exception test, the PPG is clear that this should only be applied following the application of the sequential test.

12. As I have found the proposal does not pass the sequential test, it matters not whether it would pass the exception test, as this alone would not satisfy the requirements of the Framework and PPG. However, even if I were to consider the sequential test passed, I have already identified issues relating to the FRA and whether the development would be safe for its lifetime. The evidence before me is also insufficient to conclude that the development would provide wider sustainability benefits to the community that would outweigh the flood risk, thus failing to satisfy the requirements of the exception test in any event.
13. I appreciate that the scheme relates to an existing structure, that holiday let visitors could be advised not to attend the site in flood events/asked to leave if a flood warning was issued and that as a holiday let it would not be someone's permanent residence. However, this does not override the requirements to comply with the sequential and exception tests.
14. For the above reasons, I therefore conclude that the site is an unsuitable location for the development having regard to flood risk. This is contrary to Chapter 14 of the Framework, specifically the planning and flood risk section, which amongst other things, seeks to steer new development to areas with the lowest risk of flooding.
15. The Council has referred to Policies LPRSP9, LPRSP14A, LPRSP15 and LPRQD4 of the Maidstone Borough Council Local Plan Review 2021 - 2038 (the MBC Local Plan) in its reason for refusal. However, as these policies do not specifically relate to assessing flood risk, they are not determinative in respect of this main issue.

Protected species

16. The appeal site is located within a Local Wildlife Site (LWS) and beside a large pond, both of which have the potential to harbour protected species.
17. Drainage details submitted with the application detail that grey water is proposed to be transferred to the mains drainage at Waterman Cottage. The Council's Ecology Officer (EcO) confirms that this would protect the LWS and adjacent pond from pollution from grey water and is acceptable. Based on the information before me I see no reason to come to a different conclusion.
18. The appeals scheme also includes the use of a portable compost toilet. The Council raises concerns about the location and details of the compost toilet, its distance relative to the pond and how liquid will be stored and disposed of. If suitable measures are not put in place in relation to the compost toilet, the EcO advises that an Ecological Impact Assessment (EclA) would be required in addition to any further surveys found to be necessary and details of mitigation/compensation measures.
19. The appellant confirms that the compost toilet design has a sealed system where solid matter is collected into a vessel and periodically emptied into a disposal bunker. Liquid waste is disposed of via the grey water drainage system and the compost from the toilet is used outside of the LWS. A smaller grey shaded square is annotated on the proposed site plan adjacent to the pond which corresponds with the toilet cubicle shown on the proposed north elevation and my site observations. The location of the toilet is therefore in close proximity to the pond which poses the potential risk of contamination.
20. The appellant states that as the toilet is movable, a condition could be imposed to provide details of its relocation away from the pond. However, the extent of land included within the red line on the Site Location Plan is limited and there is no blue line

to demonstrate the extent of the land within the appellant's ownership. It is therefore unclear whether the toilet could be repositioned to at least 10m away from the pond, which the Council suggests would be a suitable buffer from the pond, within the red line or land within the appellant's control. The appellant does not dispute the suitability of this buffer from the pond and based on the evidence before me; it is unclear whether this could be achieved within the red line. As such, a condition to this effect would be unreasonable.

21. The evidence before me does not consider the potential ecological implications of the compost toilet on the LWS, adjacent pond or any protected species that may be present in proximity to the site. I therefore cannot be certain that the positioning of the toilet in close proximity to the pond would not result in potentially adverse ecological affects on the LWS or protected species and whether these could be adequately mitigated or compensated for.
22. For the above reasons, I therefore conclude that the appellant has failed to demonstrate that the development would not have an adverse effect on ecology. This is contrary to Policies LPRSP15 and LPRSP14(A) of the MBC Local Plan which together and amongst other things, require developments to protect and enhance any on-site biodiversity and geodiversity features, avoid harm to habitats and biodiversity or damage to locally designated sites of importance.
23. The Council has referred to Policies LPRSP9 and LPRQD4 of the MBC Local Plan in its reason for refusal. However, as these policies do not specifically relate to ecology, they are not determinative in respect of this main issue.

Other Matters

24. The appellant states that the site has been operation for 3 years with no identified issues and has many 5-star reviews. However, this does not overcome or address the harm I have identified in respect of the main issues.

Planning Balance and Conclusion

25. The appeal scheme would result in a holiday let that would deliver economic and tourism benefits to the rural economy and enable access to the countryside. However, given the scale of the development, any economic, social or environmental benefits associated with the scheme would be limited and would not outweigh the harm identified.
26. Therefore, for the reasons given above, the proposal conflicts with the development plan as a whole and material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, I conclude the appeal should be dismissed.

H Whitfield

INSPECTOR