
Appeal Decision

Site visit made on 16 December 2025

by **N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Appeal Ref: APP/D0121/W/25/3372394

35 Whitecross Road, Weston super Mare BS23 1EN

- 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 Davey against the decision of North Somerset Council.
 - The application Ref is 25/P/0185/FUL.
 - The development proposed is retention of retail unit and conversion of storage area to 2 1-bed flats.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

-whether the site is a suitable location for the development having regard to flood risk; and

-whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook.

Reasons

Flood risk

3. The site is a 2-storey building which comprises a retail unit with a self-contained flat above. An alley is located to the side of the building, providing pedestrian access to 2 residential units to the southeast of the site. The appellant sets out that Environment Agency mapping indicates that the site is currently located within Flood Zone 1, and that the area benefits from sea defences. However, the Council's Strategic Flood Risk Assessment (2025) (SFRA) identifies that, taking into account the effect of climate change, the site is within Flood Zone 3a (a 1 in 200 or greater annual exceedance probability of sea flooding in any year) and thus is assessed as being at a high probability of future flood risk.
4. The National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The Framework also states that development should only be allowed in areas at risk of flooding if certain matters can be demonstrated, including that development is appropriately flood resistant and resilient, that any residual risk can be safely managed and that safe access and escape routes are included where appropriate as part of an agreed emergency plan.

5. The development comprises a change of use of part of the building from commercial use (ancillary storage) to 2no flats. Whilst no additional footprint is proposed, the development would replace a 'less vulnerable' land use with a 'more vulnerable' one¹. In its current use the ground floor of the building would not be occupied as a place of residence and thus the vulnerability of the development to the risks of flooding would increase. The appellant provides some commentary on flood risk within the design, heritage and access statement and the appeal statement. However, this does not include calculations of estimated flood levels, assessment of residual flood risks or establish whether it will increase flood risk elsewhere. It thus does not represent a site-specific flood risk assessment (FRA) that has been prepared in accordance with the guidance in the PPG².
6. The submission states that during a flood event future occupants would be able to use escape stairs within the courtyard to access the first-floor terrace area, which it is stated, is above the flood plain and would be large enough to be used as a refuge area. However, I cannot be assured that the use of an escape ladder to gain access to the refuge would be practical or accessible to all, including those with mobility issues. Whilst it is stated that this area is in the same ownership as the site, I cannot be assured that that would always be the case or that access to the refuge area would always be granted to the development's occupiers. Given this it cannot be guaranteed that the proposal would provide a safe refuge which would be accessible to future occupiers for the lifetime of the development.
7. The submission sets out that if deemed necessary the 2 flats could be provided with barriers to doors to assist with flood protection. It is stated electric points would be fitted one metre above ground level and breathable plaster used on ground floor walls. Whilst the resilience measures might help minimise flood damage, in the absence of a site-specific FRA which calculates estimated flood levels, I cannot be assured that the resistance measures would be successful in preventing water ingress in a flood event. Thus, the proposal provides inadequate information on how future occupants would be kept safe from flood hazards over the lifetime of the development.
8. On the basis of the information before me it has not been demonstrated that the development's impacts could be rendered acceptable by the imposition of conditions requiring the implementation of flood mitigation measures/ a flood emergency plan. Whilst future occupiers may well sign up to the Environment Agency's flood warning system, that would only be an appropriate course of action if it were clear that the development could be made safe for its lifetime. Whilst it may well be the case that there are instances of ground floor residential accommodation in the area, that does not justify the siting of further inappropriate development in areas at future risk of flooding as calculated in the SFRA.
9. It has not been demonstrated that the proposal would be safe from flood risk for its lifetime. Consequently, the location of the development is not suitable in regard to flood risk. It therefore conflicts with those aims of policy CS3 of the Core Strategy (2017) (CS) and policy DM1 of the Development Management Policies Sites and Policies Plan Part 1 (2016) (DMP) which seek to direct development to areas of lowest flood risk. Conflict also arises with the Framework, which has similar aims.

Living conditions

¹ As defined in Annex 3 of the National Planning Policy Framework

² Paragraph: 020 Reference ID: 7-020-20220825

10. The flats would have a floor area of 43.4m² and 44.7m² and the individual rooms and overall dwelling sizes would meet the specific floor areas required by the Nationally Described Space Standards. Windows facing the courtyard would be at ground floor level, and there is no compelling evidence that this space would be the subject of overlooking, including from neighbouring properties.
11. The kitchen/living room to unit 2 would be served by 5 windows and a roof light and the bedroom would be served by a window and rooflight. The open plan living room/ kitchen to unit 1 would be served by 2 windows and a rooflight. Based on the evidence before me and my observations on site, with the benefit of multiple openings, these rooms would receive adequate levels of natural light. However, the bedroom to unit 1 would be served by a small window opening, which, whilst south-facing, is sited in close proximity to the boundary fence, and thus would receive limited natural light, making this a dark and oppressive room in which to spend time, to the detriment of the living conditions of the occupiers of this unit.
12. Given the limited separation between the window openings and the site boundary/ courtyard boundary treatment, all window openings in both units would have poor, restricted outlook, to the detriment of the living conditions of the occupiers.
13. There is no compelling evidence before me that the proposed privacy shutters would safeguard occupiers against overlooking when the windows are open. Thus, I cannot be assured that future occupiers would not be subject to overlooking from users of the alley, resulting in a harmful lack of privacy for these occupiers, to the detriment of their living conditions.
14. The development would fail to provide an acceptable standard of accommodation for future occupiers. I therefore find conflict with those aims of DMP policies DM32 and DM37 which require that the design and layout of developments should not prejudice the living conditions for the occupiers of the proposal. Conflict also arises with the Supplementary Planning Document Residential Design Guide – section 1 Protecting living conditions of neighbours (2013) which has similar aims.

Other Matters

15. The Council did not refuse the application on grounds of its effect on highway safety, the setting of any listed buildings, its effect on the character and appearance of the area or the effect on the living conditions of the occupiers of neighbouring properties. Based on the evidence before me I see no reason to reach a different view. Nonetheless, compliance with the relevant development plan policies on these matters would be required in any case. These are not therefore matters which weigh in favour of the proposal.
16. Whilst it is noted that one letter of support was received in relation to the proposal, a lack of objection does not equate to a lack of harm, and this does not outweigh the harm identified and development plan conflict in relation to the main issues.

Planning balance

17. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. In these circumstances, paragraph 11 d) of the Framework is engaged. This indicates that the policies which are most important for determining the application should be deemed out-of-date and permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when

assessed against the policies in the Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

18. The proposal would provide 2 energy-efficient dwellings on a brownfield site with good access to facilities and public transport, contributing to housing mix in the district. There would be economic benefits during the construction and occupancy phases. The Framework states that substantial weight should be given to the value of using suitable brownfield sites within settlements for homes. Given the shortfall, I attach significant weight to the benefits of housing delivery. It is stated that the appeal proposal would facilitate the retention of the retail floor space and I afford due weight to the development's contribution to the vitality and vibrancy of the local centre, and its compliance with the Framework and relevant development plan policies in this regard.
19. On the other hand, I must weigh these benefits against the development's risk to future occupiers in relation to flooding and the harm to the living conditions of future occupiers arising from the standard of accommodation proposed. The Framework is clear that inappropriate development in areas at high risk of flooding should be avoided and that decisions should ensure that developments create spaces with a high standard of amenity. I give significant weight to the conflict with the development plan policies in these areas.
20. Whilst the Framework seeks to significantly boost the supply of housing, the adverse impacts would significantly and demonstrably outweigh the benefits of the delivery of 2 dwellings, when assessed against the policies in the Framework taken as a whole. Thus, the proposal would not constitute a sustainable form of development in terms of the Framework and does not benefit from the presumption in favour of sustainable development.

Conclusion

21. The proposal would conflict with the development plan and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Thus, having regard to all other matters raised, the appeal is dismissed.

N Robinson

INSPECTOR