
Appeal Decision

Site visit made on 21 July 2026

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2026

Appeal Ref: APP/D0121/W/25/3371091

53 Whitecross Road, Weston Super Mare, North Somerset BS23 1EJ

- 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 Michael Lock against the decision of North Somerset Council.
 - The application Ref is 25/P/0579/CM2A.
 - The development proposed is internal alterations/change of use of ground floor shop to form 2No two bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Flooding information dated 11 August 2025 has been submitted with the appeal. This did not form part of the original application. This does not represent an amendment to the proposal, and the Council has had the opportunity to comment on this. On this basis, I do not consider that any party would be unfairly prejudiced. I therefore have had consideration to this document in determining this appeal.

Background and Main Issue

3. 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 GPDO) provides for a permitted development right for the change of use of a building falling within use Class E (Commercial, Business and Service) to Class C3 (Dwellings). Paragraph MA.2(2) requires that the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required for prior approval matters set out in sub-sections (a) to (h). The Council refused to grant prior approval for (c) flooding risks in relation to the building.
4. The main issue is whether prior approval should be granted in relation to the flooding risks of the building.

Reasons

5. The appeal site is a 2-storey end-terraced building which comprises a retail unit to the ground floor. To the first floor is a self-contained flat. The proposal relates to the conversion of the ground floor to 2no 2-bedroom flats. Taking into account climate change the site is within future Flood Zone 3a (tidal floodplain) and is therefore assessed as being at a high future probability of flooding. Whilst no

additional footprint is proposed, the development would replace a 'less vulnerable' land use with a 'more vulnerable' one¹.

6. 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). Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. The Framework goes on to state that, where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA) and that development should only be allowed in areas at risk of flooding where, in light of this assessment, it can be demonstrated that any residual risk can be safely managed and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
7. The Planning Practice Guidance (PPG) notes that applications for a change of use of land or buildings are not normally subject to the Sequential or Exceptions test, even where the change may be from a 'less' to 'more' vulnerable use. Nonetheless, where a change of use would increase the vulnerability of the development or its occupiers/users, the PPG expects it to be demonstrated through a FRA that users of the development will not be placed in danger from flooding throughout its lifetime. The PPG states that proposals that are likely to increase the number of people living in areas of flood risk require careful consideration, as they could increase the scale of any evacuation required, and that changes of use can increase the vulnerability of the development or result in occupation or use by people who are more vulnerable than the previous occupants/users to risks from flooding.
8. The Council's Strategic Flood Risk Assessment (2025) (SFRA) identifies that for future tidal flood risk ground levels should be raised above the defended design flood event with an allowance for climate change plus 0.3m freeboard. The SFRA defines a design flood event as tidal flooding with a 0.5% annual probability (1 in 200 chance each year) plus an appropriate allowance for climate change. Flood depth data indicates that a design flood event would result in a maximum flood depth of 0.07m. Detailed plans of the internal floor levels are not before me. In the absence of this information, I cannot be assured that the internal floor levels would be 0.3m above the defended design flood event including an allowance for climate change. Therefore, I cannot be assured that the development would be safe from flooding for its lifetime in accordance with the requirements of the SFRA.
9. The appellant proposes that in a flood event, occupiers of the flats would have access to the first-floor flat and access to keys to be able to use the staircase, on which there are 2 landings. It is stated that it would be written into the lease for the first-floor flat that, in the event of a flood, the occupant must allow the residents of the proposed flats access for means of escape. A further refuge for the occupiers of flat 2 is proposed within the roof space above bedroom 1.
10. The landing areas within the staircase to the first floor flat are small and there is no indication that this area, or the refuge within the roof space to flat 2, would provide access externally from which occupiers could be rescued at the same level as the refuge. Access to the first floor flat would be largely dependent on the actions of its occupiers who might not be at the property during a flood event to allow access

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

and I cannot be certain that access to this flat would always be granted to the development's occupiers. Whilst this flat is currently in the same ownership as the site, the potential for different property owners and lease agreements casts further doubt on the reliance on others to provide access during a flood event. Given this, even if future occupiers were made aware of the likely frequency of floods and provided with subscription details for the Environment Agency's flood warning system, I cannot be assured that they would have access to an adequate safe refuge from which they could be rescued in a flood event. I cannot therefore be certain that safe access and escape routes would be provided.

11. My attention is drawn to a development at 27 Whitecross Road². The full details of that proposal are not before me to give substantial credence to. Nonetheless, there is no suggestion that that development includes a flood refuge that is dependent on an upper floor flat or that it did not provide access externally at the same level as the refuge from which occupiers could be rescued. Thus, that development does not appear to be comparable to the appeal proposal. Whilst it may well be the case that there are instances of ground and basement level residential accommodation in the area, that does not justify the siting of further development in areas at future risk of flooding.
12. It has not been demonstrated that the development would be safe from flooding for its lifetime or that safe access and escape routes would be provided in a flood event. Conflict arises with Chapter 14 of the Framework which seeks to direct development away from areas at highest risk. Therefore, the proposal does not comply with Article 3(1) and Schedule 2, Part 3, Class MA.2(2) (c) of the GPDO.

Other Matters

13. The matters which must be considered in a prior approval application are set out in the GPDO. Given the scope of matters for consideration the benefits to housing land supply and the local community fall outside the scope of the prior approval process, and my determination of this appeal rests only on the criteria set out in the GPDO.
14. The appellant's comments regarding the Council's handling of the application including the consultation with the Environment Agency (EA) are noted. It is a requirement of Part 3, Paragraph W.(6) of the GPDO that where the application relates to prior approval as to the flooding risks on the site, the local planning authority must consult the EA where the development is in an area within Flood Zone 2 or 3. The appeal must be considered on its own merits and in accordance with the requirements of the GPDO. Whether or not the Council consulted the EA and requested the same level of flooding detail in relation to other proposals to which my attention has been drawn³ does not lead me away from my conclusions above in relation to the flood risks of the building.

Conclusion

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

N Robinson

INSPECTOR

² 24/P/0583/CM2A

³ 20/P/0716/FUL, 19/P/2770/FUL, 24/P/0583/CM2A, 24/P/2400/CM2A, 25/P/0579/CM2A, 25/P/0185/FUL