Henry Adams planning

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

21 August 2024

Dear Ms Fongauffier,

Town and Country Planning Act 1990
Appeal by Mr Jonathan Forrest
Site Address: 29 Church Walk, WORTHING, WEST SUSSEX, BN11 2LT

I refer to your letter dated 12 August 2024 enclosing the statement of the LPA and third party representations. Please accept this letter as our response, on behalf of the appellant, to those comments.

Firstly, in relation to the 2022 refusal of planning permission (AWDM/1514/22) it is difficult to understand on what basis the LPA disputes our statement of fact about the reason for refusal. The officer's report does not comprise the decision of the Local Authority which clearly only relates to the size, design and location of the building and its impact on visual amenities and residential environment of the locality. By contrast, the reason for refusal of this appeal proposal refers to the standard of accommodation and its potential use as an independent unit of accommodation. We therefore maintain our position that the earlier refusal that included habitable accommodation was not refused on the basis of the inclusion of that accommodation and the Council has changed its position in this respect in refusing the appeal proposal.

The Council's comments in relation to the appellant's application submission have been dealt with in our original appeal statement. The appellant had a desire to use the building for other purposes but was not professionally advised at the time. The intention now is for it to be used for purposes ancillary to the ground floor flat, which can be controlled by condition and is the basis on which the appeal should be determined.

The Council contends that a condition cannot control the use yet placed a condition on the 2023 planning permission requiring it to be used incidental to no. 29. It precluded habitable accommodation, however still sought to control the use to prevent it becoming an independent unit of living accommodation. There is no reason why a condition cannot equally be used in this case to prevent the independent use of the building. This is easily enforceable as the use of the

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building for independent living accommodation would be very different in character to an ancillary use and readily apparent. It would not take much investigation to determine the use, particularly with the tools available to the Council including Planning Contravention Notices. We maintain that it is not appropriate to determine an application on what it might be used for in the future but what is being applied for. It is noted that the Council does not dispute this point but merely reiterates its comments that the building is not suitable as a separate dwelling (with which we do not disagree) and in any event is not what is being sought.

The internal alterations to the building could have occurred after the completion of the garage approved under the 2023 permission as the provision of a floor and a staircase is not development requiring planning permission. The installation of a kitchen and bathroom is also not development and provided the accommodation as a whole was not used as habitable accommodation and perhaps just used like a garden room, there would have been no breach of the condition in our view.

The Council implies that the proposal does not comply with Local Plan policy DM5 insofar as it relates to annexes as it is not designed to be ancillary to the main dwelling. It does not expand upon or justify this point. On the contrary, we maintain that the proximity of the building to the principal dwelling is one factor that is encouraged in the design of ancillary accommodation as the distance between buildings is a key to making it easily accessible to use for ancillary purposes and helps preclude its future use as a separate building. If this building was some distance from the house within its own grounds, then the Council's argument could hold more weight, but in this location is does not.

The Council states that the building comprises 80sqm of internal floorspace of which more than 50sqm would be habitable accommodation. This is disputed as almost half the first-floor accommodation (around 20sqm) would be below 1.5m and not usable floor space. With the kitchen and bathroom comprising around 17sqm, it actually amounts to around 37sqm which is distinctly subservient to the two bedroom flat in terms of the accommodation and is subservient to the main building as a whole in both scale and character.

Finally, in terms of the proposed conditions, the following comments are made for the Inspector's consideration:

1. This condition should not refer to the development being 'carried out' in accordance with the plans as it is already built but should refer to the development being retained in accordance with the approved plans. The photograph referred to should not be an approved document.

2. For all the reasons set out in the appellant's case, it is not considered that the removal of the kitchen is justified. The accommodation can be used ancillary to the occupation and

enjoyment of the ground floor flat with the kitchen retained. However, if the Inspector does not agree and considers it essential for the kitchen to be removed for the development to be acceptable, then the appellant will agree to the condition if it secures planning permission for the building.

3. This condition is suggested by the Council's drainage consultants but is not justified in our view as the site is in Flood Zone 1 and is not at risk from surface water flooding (see Appendix A). If for any reason the Inspector considers it necessary then the condition needs to give a timescale for the details to be submitted (as opposed to prior to occupation) and a timescale for those measures to be implemented.

I trust these additional comments are of assistance to the Inspector.

Yours sincerely

Dawn Appleton

Dawn Appleton
Senior Planner
Henry Adams LLP

Appendix A

Information from EA Flood Map for Planning:

Environment Agency

Flood map for planning

Your reference	Location (easting/northing)	Created
<Unspecified>	**515884/102999**	**20 Aug 2024 17:29**

Your selected location is in flood zone 1, an area with a low probability of flooding.

You will need to do a flood risk assessment if your site is **any of the following:**

- bigger that 1 hectare (ha)
- **In an area with critical drainage problems as notified by the Environment Agency**
- identified as being at increased flood risk in future by the local authority's strategic flood risk assessment
- at risk from other sources of flooding (such as surface water or reservoirs) and its development would increase the vulnerability of its use (such as constructing an office on an undeveloped site or converting a shop to a dwelling)

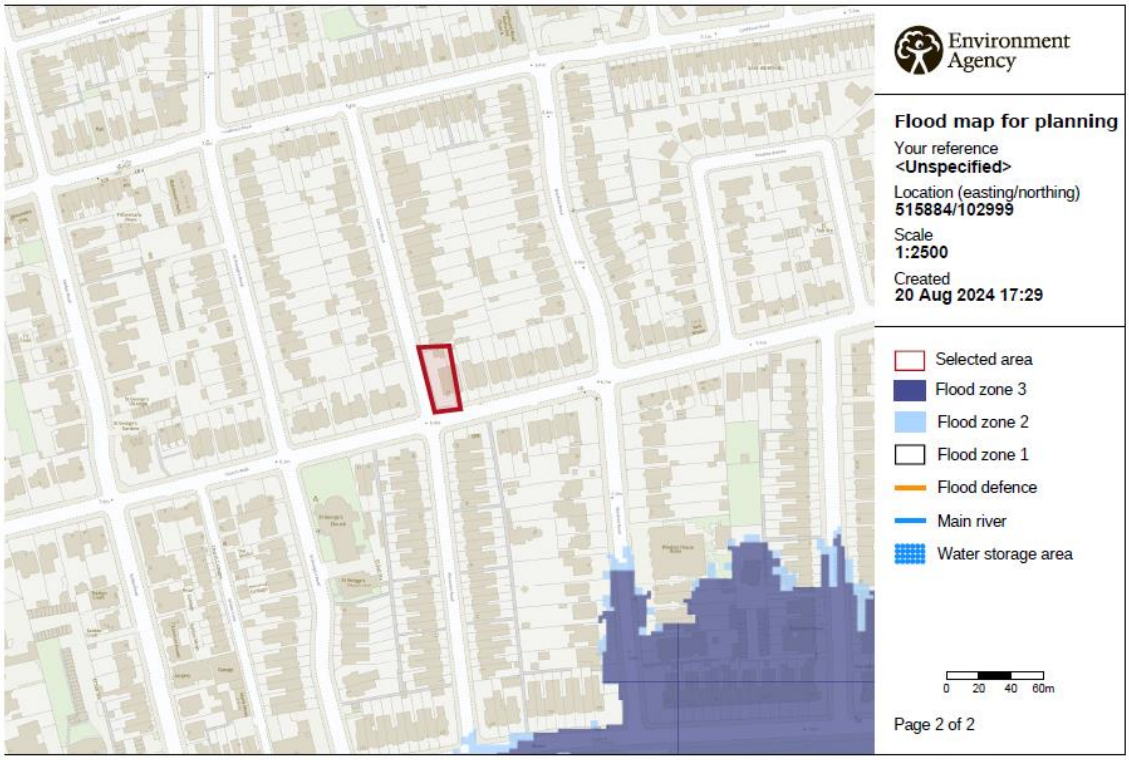
Notes

The flood map for planning shows river and sea flooding data only. It doesn't include other sources of flooding. It is for use in development planning and flood risk assessments.

This information relates to the selected location and is not specific to any property within it. The map is updated regularly and is correct at the time of printing.

Flood risk data is covered by the Open Government Licence **which** sets out the terms and conditions for using government data. https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/

Use of the address and mapping data is subject to Ordnance Survey public viewing terms under Crown copyright and database rights 2022 OS 100024198. https://flood-map-for-planning.service.gov.uk/os-terms



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Information from EA Surface Water Flooding Map showing low probability of surface waterflooding:

