

Citing an appeal decision made by the secretary of state (DCS Number 100-071-536 (<http://www.compasssearch.co.uk/compass/faces/SearchExternal.jsp?dcsref=100-071-536&seq=0&nologin=true>)), an appellant has convinced an inspector that there are circumstances in which development can be allowed in Flood Zone 3.

An enforcement notice had been issued requiring the use of the site in Cambridgeshire as a gypsy site to cease. The inspector dealing with the appeal (DCS Number 200-008-787 (<http://www.compasssearch.co.uk/compass/faces/SearchExternal.jsp?dcsref=200-008-787&seq=0&nologin=true>)) noted that the site was not in the functional floodplain but in the passive floodplain, and she also found that the sequential test had been met. However, she recorded that the site was within Flood Zone 3 as defined in the Environment Agency's flood maps where highly vulnerable development, such as caravans, would not normally be permitted. The Exception Test, she explained, was therefore not normally relevant to such proposals.

Nevertheless, the inspector noted "the appellant has submitted an example of a case, determined by the Secretary of State, where a similar conflict occurred but where it was consequently found that failure to meet the policy on the location of development at risk of flooding was just one of a number of material considerations that needed to be weighed in the planning balance. In the case cited, the Exception Test was found to have been met as the benefits of the development were found to outweigh the presumption against it and that it would be safe for its lifetime, without increasing flood risk elsewhere. I consider that this finding consequently confirms that there can be circumstances where development in Flood Zone 3 can be permitted."

The inspector considered that whilst there was a policy conflict with respect to the location of the site in Flood Zone 3, the actual harm caused by this would be slight, provided suitable conditions were put in place. She concluded that the benefits of the proposal were material considerations sufficient to outweigh any conflict with local and national planning policy and that planning permission for the development should be granted.

There is a section on flood risk in relation to gypsy sites at 24.539 (<http://www.dcp-online.co.uk/DCP/loginserv?dcpref=24.539>) of DCP Online.

◀ Never the twain shall meet (<https://latest.dcp-online.co.uk/2019/10/11/never-the-twain-shall-meet/>)

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The power of precedent

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