



Appeal Decision

Site visit made on 20 May 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 July 2024

Appeal Ref: APP/E3335/W/23/3331042

Land off Bineham Lane, Yeovilton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs V Madew against the decision of Somerset Council.
 - The application Ref is 22/02741/OUT.
 - The development proposed is 4 self-build residential plots.
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Decision

1. The appeal is allowed and planning permission is granted for 4 self-build residential plots at Land off Bineham Lane, Yeovilton in accordance with the terms of the application, Ref 22/02741/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was made in outline with only details of access to be determined at this stage. Matters of appearance, landscaping, layout and scale are reserved for future consideration (the 'reserved matters'). I have therefore treated any references to reserved matters in documentation as illustrative.
3. I have taken the description of development in the banner heading above from the application form. However as 'Outline application with all matters reserved accept access for the development of' are not an act of development, I have removed this element.
4. The planning application was originally submitted to South Somerset District Council. However, the Council became part of Somerset Council in April 2023 and therefore the Decision Notice was issued by Somerset Council. I have therefore referred to this in my banner heading above.

Main Issues

5. The main issues are:
 - whether the proposal would provide a suitable location for housing, having particular regard to the development strategy for the area and accessibility of services and facilities; and
 - the effect of the proposal on the Somerset Levels and Moors Special Protection Area, Site of Special Scientific Interest and Ramsar sites (the Protected Sites).

Reasons

location

6. Policy SS1 of the South Somerset Local Plan 2006-2028 (March 2015) (LP) sets out the settlement hierarchy for the plan area. Yeovilton does not fall within any named settlement identified within LP Policy SS1 and is considered a rural settlement to be treated as being in the open countryside and subject to the exceptions identified in LP Policy SS2.
7. LP Policy SS2 requires that in locations such as the appeal site, proposals for new housing development should meet certain exceptions and should have access to two or more key services. The proposal does not fall within one of the exceptions identified in LP Policy SS2 as it is not a proposal for either an employment or community facility or affordable dwellings.
8. In relation to access to services, LP paras 5.33 and 5.41 outlines that there may be occasions when nearby settlements effectively provide local services for each other, acting as a 'cluster' and my attention has been drawn by both main parties to other permissions both refused and granted within Yeovilton. With regard the refused permissions, I have minimal information before me. However, it appears from the evidence that the refused permissions put forward by the Council are of some age and predated the LP.
9. In terms of the granted permissions, the Council's reasons for approving these permissions included that the Committee considered that Yeovilton, along with Ilchester and Limington, act as a cluster providing residents with the necessary local services. Despite the Council stating that these decisions were made contrary to Officer advice, and approved by the former District Council's Planning Committee, they nevertheless were determined in the context of the existing LP.
10. The Council have also referred to a previous appeal decision for a self-build dwelling which was dismissed. However, whilst the full details of this other case are not before me, that appeal related to a differing rural settlement, with a differing spatial relationship and distances to both neighbouring settlements and services and facilities than the appeal before me.
11. However, each proposal is required to be determined on its own merits and in terms of the access to services from the appeal site, I observed that Yeovilton contains a faith facility which is one of the identified services within the LP. The village of Limington is approximately 0.8 miles away and features a public house, which is also an identified service. Furthermore, the evidence before me indicates that the routes around Yeovilton are well utilised for recreational purposes.
12. Notwithstanding, I observed that whilst the route to Limington is relatively flat and within walking distance, it lacks footways and streetlighting. This would discourage pedestrian use, particularly during hours of darkness. Ilchester, where more extensive services and facilities are available which would generally be required for day-to-day living is notably further away. The route to Ilchester is more undulating, and also lacks footways and streetlighting along part. I observed that the distance and character of the route is such that whilst it may be feasible for cyclists, it would discourage regular use by pedestrians.

13. Although future occupiers could at times walk or cycle to the surrounding services, I find that occupants of the proposal would still be likely to travel to other settlements by private vehicle for employment, schooling, and to meet their general day-to-day needs. In the absence of regular public transport, an increase in travel by private car would be a likely inevitable consequence of the proposal.
14. Consequently, I conclude the proposal would not provide a suitable location for housing, having regard to the development strategy for the area and the accessibility of services and facilities. The proposal would conflict with LP policies SD1, SS1 and SS2. These policies, amongst other things, outline the Councils approach to sustainable development and seeks to ensure development is directed towards locations with access to services and facilities. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to promoting sustainable transport.

The Protected Sites

15. The appeal site is within the catchment of the Protected Sites which are designated under the Conservation of Species and Habitats Regulations 2017, as amended (Habitats Regulations) for its rare aquatic invertebrates. The condition of the Protected Sites is deteriorating due to increased nutrient loads, in particular phosphates.
16. The addition of residents associated with new dwellings which increase the amount of foul water produced in the catchment area will be likely to increase the phosphorus loading and further unbalance the nutrient levels within the Protected Sites. Significant effects from the development are therefore incapable of being ruled out and are considered likely.
17. The proposal includes a Phosphate Mitigation Strategy which utilises a combined treatment facility comprising a 7500 litre primary tank and a Ecorock 5000 Treatment unit which would remove the majority of the phosphorous generated by the proposal. In order to ensure nutrient neutrality is achieved, additional mitigation off-site is proposed by way of replacement of an inefficient septic tank with a package treatment plant at a differing property. A Unilateral Undertaking under S106 of the Town & Country Planning Act 1990 (as amended) (UU) provides for the installation of the treatment facilities (both on and off the appeal site) and the requirement for a future management and maintenance plan.
18. The associated calculations within the evidence indicate that the mitigation approach achieves nutrient neutrality and provides a betterment in terms of reducing the existing phosphorus load impact on the Protected Sites. The Council have accepted that this matter could be satisfactorily addressed via the UU and I have also noted the consultation response of Natural England in this regard.
19. Following Appropriate Assessment, I find that the proposal would be able to robustly secure nutrient neutrality and would not adversely affect the Protected Sites. The proposal would therefore accord with LP Policy EQ4 which, amongst other things, requires development to avoid any adverse impact on the integrity of the Protected Sites. Similarly, the proposal would accord with the provisions of the Framework which also seeks to ensure development does not adversely affect the integrity of the protected sites.

Other Matters

20. The appeal site is in the vicinity of the Grade II listed Orchard House, Manor Farm Barn, and Twenty Pence Cottage. Orchard House is located directly to the south of the appeal site. From my observations its significance arises from its age and architectural features. The setting of this heritage asset is the immediate surrounding area that the building is experienced within allowing an appreciation of its architectural features and is a contributor to its significance.
21. The proposal would inevitably result in an element of increased domestic intrusion within a currently open area of the street scene and given the proximity and visual relationship, the setting of Orchard House.
22. Notwithstanding, having regard to the illustrative Design Statement, appropriate appearance, layout and scale could be achieved within reserved matters, and would minimise the effects such that the overall harm to the setting, and thus significance, would be towards the lower end of less than substantial when considered under the terms of the Framework.
23. I also observed that the significance of both Manor Farm Barn, and Twenty Pence Cottage arises from their age and architectural features, with the setting of the heritage assets also being their immediate surroundings, and in terms of Manor Farm Barn, the surrounding Manor Farm courtyard.
24. However, given the spatial relationships, the appeal site does not form part of the setting of Manor Farm Barn or Twenty Pence Cottage. The separation distances, combined with intervening road and boundary features would result in the proposal having a neutral effect on, and thereby preserve, the significance of these particular heritage assets.
25. The Framework requires that where a proposal would generate less than substantial harm to the significance of a designated heritage asset, it should be weighed against the public benefits of the proposal. In this instance, I find that the lower level of less than substantial harm to Orchard House would be sufficiently outweighed by the public benefit of the addition of four dwellings in an area with a demonstrated shortfall in housing supply.
26. The appeal site is also in close proximity to the aerodrome at RNAS Yeovilton. Given the proximity, the Ministry of Defence has raised concerns including bird-strikes caused by birds attracted to infiltration basins or certain types of plants, and noise from the aerodrome impacting future occupiers living conditions. I am informed that the drainage basin will be generally dry and designed not to hold any permanent water. Furthermore, the appellant seeks to address concerns relating to bird strike via appropriate landscaping and a bird management plan which could be secured via condition, and I see no reason why such measures could not be effective.
27. The appeal site falls within the noise exposure category 'Zone B'. There is no substantive evidence before me as to why appropriate acoustic installation cannot be installed to ensure future occupiers living conditions are not harmed from noise emanating from the adjacent aerodrome. This can also be the subject of a condition.
28. Interested parties have raised a number of concerns including the effect of the proposal on character and appearance, drainage, highway safety and neighbouring occupiers living conditions. Matters of appearance, layout and

scale are reserved for future consideration. However, the proposal would appear as being part of the village, infilling a gap between existing built form and at a scale and density that would be appropriate to the settlement. Furthermore, I see no reason why the appearance of the dwellings cannot be designed to successfully integrate the proposal into the existing street scene without harm to the character and appearance of the area.

29. The appeal site is within Flood Zone 1 although the evidence provided by interested parties indicate that the surrounding area such as Bineham Lane is prone to flooding. However following infiltration testing, the Drainage Strategy (Vectos, September 2022), shows that an infiltration-based drainage strategy could successfully manage surface water. Subject to the detailed final drainage design, which can be secured by condition, I am satisfied that the proposal would achieve appropriate surface water and foul water drainage arrangements which would prevent any additional water run-off from the site, or flooding elsewhere, including at the nearby Orchard House.
30. In terms of highway safety, the access would provide sufficient splays and be a sufficient distance from the junction of Bineham Lane, Weir Lane and Pyle Lane to ensure visibility of oncoming vehicles and pedestrians. Furthermore, given the available radii and spatial relationship of the proposed access and Orchard Cottage/House, vehicles would be able to access the site without risk of damage to neighbouring properties.
31. The surrounding highway network is in places narrow. However, the proposal would result in relatively modest numbers of additional movements on the surrounding highway network. Moreover, I observed, albeit a snapshot in time, low levels of traffic utilising the surrounding highways. Therefore, I do not consider that the movements generated by the proposal would result in a detriment to the safety of pedestrian or vehicular users of the highway.
32. The illustrative layout plan indicates that 2 parking spaces for each dwelling, which the Council states accords with required parking standards, is achievable. Given the off-road parking that can be achieved, I see no reason why the proposal would increase on-street parking resulting in harm to the safety of highway users.
33. Although due to the topography the appeal site is set above the neighbouring Orchard House, the illustrative layout indicates that appropriate separation and window to window distances could be achievable at the reserved matters stage. This would prevent unacceptable levels of overlooking and shadowing, and resultant harm to neighbouring occupiers living conditions.

Planning Balance

34. The Council acknowledge that it is presently unable to demonstrate a five year supply of deliverable housing sites (5YLHS). The appellant refers to the Council's 5YHLS Paper (November 2022) which identified a 3.7 year supply which represents a not insubstantial shortfall.
35. I have found the location of the proposal would have only limited access to services and facilities resulting in conflict with LP policies SD1, SS1 and SS2 and to the development plan as a whole. For the purposes of this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework.

36. However, whilst the conflict with the development plan amounts to harm, the Council is currently failing to deliver sufficient homes to meet the 5YHLS. Therefore, in the context of the appeal and given the extent of the housing land supply shortfall, this reduces the weight to be afforded to conflict with LP policies SD1, SS1 and SS2. Furthermore, given the modest scale of the proposal and the proximity of some limited services, the harm from the likely increase in travel by private car is limited. Accordingly, I afford modest weight to the identified harm.
37. The proposal would make a small contribution to the supply of housing. Given the Council's shortfall the provision of four additional houses would be a modest benefit. Furthermore, Section 2A of the Self-build and Custom Housebuilding Act 2015 (as amended) requires the Council to grant sufficient planning permissions to meet the demand for self-build and custom housebuilding in the authority's area in each base period.
38. Although disputed, the Council has revised its monitoring table in light of the evidence provided within this appeal and identifies 199 units based on CIL monitoring, which exceeds their cumulative requirement for 146 units to be permitted by October 2023. Nevertheless, I am informed that a number of these permissions do not reference 'self-build' in the description of development, include a planning obligation, or conditions restricting the units to self-build.
39. There is therefore some doubt as to if these would eventually come forward as genuine self-build units. Notwithstanding, even if the number of self-build permissions exceeds current demand, the proposal would still inevitably make a small contribution to diversifying the housing market and increasing customer choice which is a further modest benefit.
40. The Framework recognises that small sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. There would also be modest economic advantages of construction of the proposal which would be short term and a further modest benefit from its occupation and associated spending in the locality. There would also be a small benefit associated with the future occupiers of the proposal potential to enhance the vitality of the existing community.
41. The Framework seeks to ensure developments are provided with appropriate opportunities for sustainable transport. However, the Framework also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making.
42. Consequently, I conclude that the adverse impacts of four new dwellings arising from the location of the site and its accessibility constraints would not significantly and demonstrably outweigh the combination of its benefits, when assessed against the policies in the Framework as a whole.

Conditions

43. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance.

As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty.

44. A condition is necessary to ensure a Bird Hazardous Management Plan forms part of the landscaping reserved matters submission in the interests of safety of users of the adjacent aerodrome. Conditions are also necessary to ensure an appropriate Construction Environment Management Plan is provided and restricting times of construction in order to ensure public safety and protect neighbouring occupiers living conditions.
45. Conditions are necessary to ensure the provision of satisfactory drainage to ensure surface water drainage is managed appropriately and prevent water run-off. Conditions are also necessary in relation to vegetation removal, a biodiversity enhancement plan and a lighting scheme in the interests of wildlife protection and enhancement.
46. Further conditions are necessary to ensure appropriate parking provision, and access to the highway in the interests of the safety of users of the highway network. A condition is necessary to ensure that aircraft/aerodrome noise is mitigated in the interests of the future occupiers living conditions. Finally, a condition is necessary to remove certain permitted development rights in order to safeguard community safety given the proximity to the aerodrome.
47. Although suggested, conditions in relation to materials, construction methods and hard and soft landscaping are not necessary as matters of appearance and landscaping would be considered as part of any future relevant reserved matters application.

Conclusion

48. For the above reasons and having regard to all other matters I conclude that the appeal is allowed.

S Harrington

INSPECTOR

Schedule

Conditions

- 1) Application for approval of the reserved matters shall be made no later than the expiration of 3 years from the date of this permission and the development hereby approved shall commence no later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 3) Other than as required by reserved matters and planning conditions, the development hereby permitted shall be carried out in accordance with the following approved plans and documents: 13122_001; 13122_002; 216171 PD01.
- 4) As part of the landscaping reserved matters submissions, a Bird Hazardous Management Plan shall be submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the commencement of development on the site, including any demolition or site clearance operations, a Construction Environment Management Plan shall be submitted to and approved in writing by the Local Planning Authority, the content of which shall include details of:
 - (a) the location of any temporary works compound for the storage of building materials and storage of construction waste;
 - (b) parking provision for construction staff;
 - (c) the location and drainage arrangements for wheel and vehicle washing facilities;
 - (d) temporary security fencing or hoardings around the site;
 - (e) any temporary lighting scheme for the site and compound, and hours of illumination;
 - (f) a noise management scheme, including details of construction vehicles' manoeuvring alarms;
 - (g) means of contacting the site manager during and out of working hours, to be displayed on a location accessible by the public.
 - (h) a scheme specifying the provisions to be made for control of dust emanating from the site.

The construction activities shall be carried out in accordance with the approved details, and on completion of the construction phase all temporary compound facilities, hoarding, fencing, lighting and parking areas shall be removed from the site.

- 6) No construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08:00-18:00 Monday to Saturday and not at any time on Sundays, Bank or Public Holidays.
- 7) Prior to commencement of the development, details of detailed drainage design in accordance with the Drainage Strategy (Vectos, September 2022) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved detailed design and maintained as such thereafter.
- 8) Prior to commencement of the development (including vegetation clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials), the pre-commencement requirements of the submitted scheme of tree and hedgerow protection measures as outlined within the Tree Protection Plan & Arboricultural Method Statement, (Bosky Trees Arboricultural Consultancy 24th August 2022), shall be installed. Once installed, written confirmation shall be submitted to the Local Planning Authority.

The approved protection requirements (inclusive of any required Arboricultural supervision and compliance-monitoring measures) must remain implemented in accordance with the approved scheme throughout the duration of the construction of the development (inclusive of hard and soft landscaping installations) and may only be moved, removed or dismantled in accordance with the requirements of the approved scheme.

- 9) Prior to commencement of development, a Biodiversity Enhancement Plan (BEP) shall be submitted to and be approved in writing by the Local Planning Authority.

The content of the BEP shall include the following:

- (a) The new hedgerows and trees to be planted up with native species comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle.
- (b) Tree and native shrub planting; All new shrubs must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night flying moths which are a key food source for bats. All new trees planted on site should ideally be from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech.
- (c) One log pile as a resting place for reptiles and or amphibians constructed near one of the hedgerows, ideally near the north-western boundary.
- (d) Installation of at least 2 x Habitat 001 bat boxes (or similar) incorporated into two of the dwellings at least four metres above ground level and away from windows on the west or south facing elevations.
- (e) Installation of at least 2 x bird boxes across the site using a combination of suitable designs, such as Bark Boxes Open-fronted

nest box 13, Vivara Pro WoodStone house sparrow nest box 14, or Build-In Half Open nest box 15.

Photographs of the installed features shall be submitted to the Local Planning Authority and be approved in writing prior to first occupation.

- 10) No vegetation removal works shall take place between 1st March and 30th September inclusive, unless an ecologist has undertaken a detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the Local Planning Authority accompanied by dated photos showing the site before and after clearance. No netting shall be used to exclude nesting birds.
- 11) Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed, and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October under the supervision of an ecologist.

Once cut, vegetation shall be maintained at a height of less than 10cm for the duration of the construction period. In addition, any features such as rubble piles which potentially afford resting places for reptiles will be dismantled by hand under the supervision of an ecologist in April or August to October and any individuals found translocated to a location agreed with the Local Planning Authority by writing prior to works commencing on site. Confirmation of the completed works and any findings shall be submitted to the Local Planning Authority in writing prior to first occupation.

- 12) Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. Lux levels should be below 0.5 Lux on the identified horseshoe bat commuting routes.

All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter. No other external lighting shall be installed without the prior written consent of the Local Planning Authority.

- 13) Prior to construction above damp-proof course level, a scheme to mitigate against aircraft/airfield noise shall be submitted to, and approved in writing by the Local Planning Authority that demonstrates how the internal and external living spaces will not exceed the following maximum noise criteria:

Location	07.00 – 23.00		23.00 – 07.00
	Preferred	Upper Limit	
Living Room	n/a	35 dB $L_{Aeq,16hr}$	
Dining Room/Area	n/a	40 dB $L_{Aeq,16hr}$	
Bedroom	n/a	35 dB $L_{Aeq,16hr}$	30 dB $L_{Aeq,8hr}$ < 10 events >45 dB $L_{Amax,F}$
Private Amenity Areas and Gardens	50dB $L_{Aeq,16hr}$	55 dB $L_{Aeq,16hr}$	

The scheme shall detail all necessary elements of the mitigation including: bunding, fencing, site layout, floor plan layout, building envelope construction, glazing and ventilation.

The scheme shall include calculations showing the source noise levels, the attenuation characteristics of the building element or barrier and the resultant noise levels in the relevant internal and external spaces. Sufficient details of the construction of bunds or fences on bunds shall be provided to demonstrate the technical feasibility of the structure. The scheme shall be implemented in full. A Verification Report to demonstrate that the Scheme has been implemented in full, shall be submitted to the Local Planning Authority for approval in writing prior to first occupation.

- 14) Prior to first occupation, the proposed access shall be constructed to be no less than 5m in width with no loose or unbound materials within 6m of the highway edge. The gradient of the access shall not exceed 1:10 and there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43 metres either side of the access.

The site shall be kept suitably drained to prevent surface water from discharging onto the public highway.

Once constructed the access and visibility shall be maintained thereafter in that condition in perpetuity.

- 15) Prior to first occupation, the parking spaces for the dwellings and a properly consolidated and surfaced turning space for vehicles shall be provided and constructed within the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Such parking and turning spaces shall be kept clear of obstruction in perpetuity and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

16) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express grant of planning permission, other than that expressly authorised by this permission:

- (a) Part 1, Class A (enlargements, improvements or other alterations)
- (b) Part 1, Class AA (enlargement of a dwellinghouse by construction of additional storey)
- (c) Part 1, Class B (roof additions)
- (d) Part 1, Class C (other roof alterations) and
- (e) Part 2, Class A (gates, fences, walls or other means of enclosure).

End of Conditions