



Appeal Decision

Site visit made on 20 May 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/R3325/W/23/3334856

Land Adjoining Pilgrims, Weir Lane, Yeovilton, Yeovil BA22 8EU

- 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 H & S Developments Ltd against the decision of Somerset District Council.
 - The application Ref is 20/02512/OUT.
 - The development proposed is the erection of 2 No. detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No. detached dwellings at Land Adjoining Pilgrims, Weir Lane, Yeovilton, Yeovil BA22 8EU in accordance with the terms of the application, Ref 20/02512/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 for' and 'with all matters reserved apart from access' are not an act of development, I have removed these elements.
4. The planning application was originally submitted to South Somerset District Council, and I note that the appellant has referred to this Council on the appeal form. 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 Council 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. The appeal site is an area of undeveloped land abutting Weir Lane and located adjacent residential dwellings to the edge of the village of Yeovilton. For the purposes of the South Somerset Local Plan 2006-2028 (March 2015) (LP), Yeovilton is a rural settlement. LP Policies SS2 and TA5 require that in such locations, amongst other things, proposals for new housing development should have access to two or more services and be designed to maximise the potential for sustainable transport.
7. LP Para 5.42 states that it is not realistic to expect a small hamlet with few services to be made a more sustainable location through new development. However, 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'.
8. The evidence before me indicates that the appeal site is subject to a planning permission¹ for the erection of one dwelling. The Council's reason for permitting the permission was that the Committee considered that Yeovilton, along with Ilchester and Limington, acts as a cluster providing residents with the necessary local services. My attention has also been drawn to other permissions within Yeovilton which is stated, and not refuted by the Council, to be permitted for similar reasons.
9. It is not clear from the evidence why the Council now appear to have taken a differing view on the accessibility to local services from the appeal site. Nevertheless, I observed that Yeovilton contains a faith facility, and notwithstanding the restricted service provision as outlined by an interested party, is one of the services identified within the LP. The village of Limington is also nearby and features a public house, which is also an identified service.
10. From my observations, the route to Limington is relatively flat and within walking distance. However, the lack of footways and streetlighting would discourage pedestrian use, particularly during hours of darkness. Ilchester, where more extensive services and facilities are available, is notably further away, and although the route is also flat, the distance is such that it would discourage access by foot.
11. Subsequently, I find that given this limited access, future occupants of the appeal scheme would be likely to need to travel to other settlements for employment and to meet their day-to-day needs. Given the restricted nature of nearby public transport services, an increase in travel by private car would be a likely consequence of the appeal scheme.
12. Consequently, I conclude that 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, SS2, and TA5. These policies, amongst other things, outlines the Council's approach to sustainable development and seeks to ensure development is directed towards locations with access to services and facilities.

¹ 19/01996/OUT

The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to promoting sustainable transport.

Effects on the Protected Sites

13. 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. 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.
14. The proposal includes a Nutrient Neutrality (Phosphorus) Assessment and Mitigation Strategy (Encompass Ecology, October 2023) (NNA) and Shadow Habitats Regulation Assessment (sHRA)(Encompass Ecology, October 2023).The proposal would utilise package treatment plants (PTPs) which would issue treated effluent at 0.9mg TP/litre. The NNA specifies that including a change in land use, a total phosphorus budget value of +0.34 kg/phosphorus/year has been calculated which includes a 20% confidence buffer.
15. In order to mitigate the phosphorus load, 0.944 hectares of agricultural land in the appellant's ownership is proposed to be fallowed, followed by orchard planting. A signed agreement under S106 of the Town & Country Planning Act 1990 (as amended) (S106) provides for the installation of the PTPs and future maintenance and monitoring. Furthermore, the S106 binds the mitigation land for a period of at least 125 years and ensures its maintenance and management in accordance with a Landscape and Ecological Management Plan.
16. I have had regard to the response of Natural England following consultation and I find that the evidence before me points to the development being able to robustly secure nutrient neutrality. Moreover, I note the Council are of the same view and accept that this matter could be satisfactorily addressed.
17. Consequently, following Appropriate Assessment, the proposal would suitably safeguard ecology and biodiversity both directly and indirectly, and would not adversely effect 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 protected sites.

Other Matters

18. Interested parties have raised a number of concerns including those in relation to the effect on neighbouring occupiers living conditions, character and appearance, highway safety and drainage. Matters of appearance, layout and scale are reserved for future consideration. However, the indicative layout plan indicates that two dwellings could be accommodated at the appeal site with appropriate separation distances between the neighbouring properties. Subject to the reserved matters, I see no reason why windows cannot be located to

minimise any overlooking and the appearance of the dwellings as well as boundary treatments (including that to the northern boundary) cannot be designed to successfully integrate the proposal into the existing street scene without harm to the character and appearance of the area.

19. The Foul Water Drainage Strategy and Maintenance Plan (WDSMP) indicates that PTPs would discharge into a drainage ditch running along the rear boundary of the site. The WDSMP confirms that the drainage ditch will be inspected for its suitability to accept effluent, and a bespoke discharge permit will in any case be required from the Environment Agency for each of the new discharges.
20. Whilst noting anecdotal concerns that there is no free-flowing body of water on or near the proposed development, I have no substantive evidence before me to indicate that the WDSMP would not be achievable. Moreover, there is no substantive evidence that any noise emanating from the PTPs (stated to be 45 decibels) would result in an unacceptable impact on neighbouring occupiers living conditions given their spatial relationship with the proposal and neighbouring dwelling.
21. In terms of highway safety, I observed a relatively low number and slow speed of vehicles along Weir Lane. The provision of suitable visibility splays can be secured by condition resulting in a safe access to the proposed dwellings. I therefore see no reason to disagree with the Council who also have not raised any concerns in this respect.
22. The Council have referred to a previous appeal decision² for a self-build dwelling which was dismissed. However, whilst the full details of the other case are not before me, I note the Inspector in that case considered that the distances to anywhere of note on foot would be prohibitive and that the appeal site would not have access to at least two facilities. However, that appeal related to a differing rural settlement, with a differing spatial relationship to neighbouring settlements than the appeal before me, limiting the equivalence of the other case to the current proposal. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.

Planning Balance

23. The Council acknowledge that it is presently unable to demonstrate a five year supply of deliverable housing sites (5YLHS). I have found the location of the proposal would have only limited access to services and facilities resulting in conflict with LP policies SD1, SS2, and TA5 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.
24. However, whilst the conflict with the development plan amounts to harm, the weight to be given to these policy conflicts are reduced due the shortfall in 5YHLS. Furthermore, given the relatively small scale of the proposal and the proximity of some limited services, the harm from the likely increase in travel by private car is reduced. Accordingly, I afford modest weight to the conflict with LP policies SD1, SS2, and TA5.
25. The Framework seeks to ensure developments are provided with appropriate opportunities for sustainable transport. However, the Framework also

² APP/E3335/W/23/3324772

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.

26. The proposal would make a small contribution to the supply of housing. Given the Council's shortfall the provision of two additional houses (albeit planning permission exists for a single dwelling at the appeal site) would be a modest benefit. 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.
27. There would be modest economic benefits through 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 from the potential for future occupiers of the proposal to enhance the vitality of the existing community.
28. Consequently, I conclude that the adverse impacts of two 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

29. 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.
30. A condition is necessary to ensure an appropriate Construction Environment Management Plan is provided in order to ensure public safety and protect neighbouring occupiers living conditions. A condition is necessary to ensure satisfactory water consumption in the interests of improving the sustainability of the dwellings. Conditions are also necessary in relation to vegetation removal and a lighting scheme in the interests of the protection of wildlife.
31. Conditions are also necessary to ensure appropriate access, parking, cycle storage, visibility splays and preventing water discharge to the highway in the interests of providing future residents with facilities to adopt sustainable modes of travel, and in the interests of the safety and convenience of all users of the local highway network.
32. Whilst a condition is suggested relating to the proposal being carried out in accordance with proposed documents, the S106 provides a mechanism to ensure that the proposal avoids pollution of the environment with specific regard to the Somerset Levels and Moors Ramsar Site and therefore such a condition is not necessary. Finally, whilst a condition has also been suggested in relation to hedgerows and a landscape and planting plan, landscaping is a reserved matter requiring further approval, and therefore such a condition is not necessary.

Conclusion

33. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal is allowed.

S Harrington

INSPECTOR

Schedule

Conditions

- 1) Application for approval of the reserved matters must be made no later than the expiration of 3 years from the date of this decision and the development hereby approved shall commence no later than 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter 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 takes place and the development shall be carried out as approved.
- 3) Other than as required by the reserved matters, the development hereby permitted shall be carried out in accordance with the following approved plans: 4231-PL01; DWG NO. 4231-PL02 Rev B.
- 4) No development shall take place, including any demolition or site clearance operations, until 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) hours of working within the site, which shall include hours of receipt and dispatch of materials and waste to and from the site, and
 - h) means of contacting the site manager during and out of working hours, to be displayed on a location accessible by the public.

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.

- 5) Prior to construction above damp-proof course level, a lighting scheme shall be submitted to, and approved in writing by the local planning authority. The scheme 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 scheme shall include 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 scheme, and these shall be maintained thereafter in accordance with the scheme. No other external lighting shall be installed without prior written consent from the local planning authority.

- 6) Prior to the occupation of the dwelling to which they relate, details of water efficiency measures shall be submitted to and approved in writing by the local planning authority. The water efficiency measures shall be designed to ensure wholesome water consumption does not exceed an average of 110 litres per person per day. The development shall be carried out in accordance with the approved details and thereafter maintained.
- 7) Prior to the occupation of either dwelling, visibility splays as shown on 4231-PL02 Rev B shall have been created such that there is no obstruction to visibility within the splays above 0.9m above the level of the adjoining carriageway. Visibility splays shall thereafter be maintained as such at all times.
- 8) Prior to occupation of the dwelling to which it relates, the first 5m of the access shall be properly consolidated and surfaced (not loose stone or gravel) and drained to prevent surface water from discharging onto the public highway. The gradient of the access shall not exceed 1:10, and any gates shall be a minimum distance of 5m from the edge of the carriageway. Once constructed the access shall thereafter be maintained in that condition at all times.
- 9) Prior to the occupation of the dwelling to which they relate, provision shall be made for the storage of cycles, parking of cars and electric charging of vehicles within the curtilage of that dwelling, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

The development shall be completed in accordance with the approved details and the storage, parking and charging facilities shall be kept available and maintained as such thereafter.

- 10) No vegetation removal works at the site 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. No netting shall be used to exclude nesting birds.

Any such written confirmation shall be submitted to the local planning authority accompanied by dated photos showing the site before and after clearance.

- 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. Prior to the works being undertaken, written notification of the date of the works shall be submitted to the local planning authority, and confirmation of the completed work thereafter.

End of Conditions