



## Appeal Decision

Site visit made on 26 November 2024

**by Alison Fish BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 December 2024**

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**Appeal Ref: APP/E3335/W/24/3337113**

**Land South of Two Ash Lane, Chard TA20 2NW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Hobbs against the decision of Somerset Council.
  - The application Ref is 23/00659/FUL.
  - The development proposed is the erection of a new dwelling and garage and formation of new vehicular access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the description from the Council's decision notice as it more succinctly describes the appeal proposal.
3. On 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). There have been no fundamental changes relevant to the main issues in this appeal. Therefore, I will not prejudice any party by taking the Framework into account in reaching my decision.

### Main Issues

4. The main issues in this appeal are:
  - Whether the appeal site is a suitable location for the proposed development with reference to the development plan and access to services and facilities;
  - The effect of the proposed development on highway safety; and
  - The effect of the proposed development on ecology.

### Reasons

#### *Location*

5. Policy SS1 of the South Somerset Local Plan 2006-2028 (LP) sets out the settlement strategy of locating development in Yeovil, Market Towns including Chard and Rural Centres. The appeal site lies beyond the built form of Chard. Whilst it is located close to other dwellings, and there is a possibility that some of the surrounding agricultural buildings could be converted to dwellings in the future, they do not have the recognisable form of a settlement and two or more services as required by Policy SS2 of the LP to be a Rural Settlement. The appeal site is therefore located in the open countryside.
6. The site is within walking distance of Forton which has a number of services and facilities including a sports club, community hall, campsite, farm shop,

- local garage and a plant nursery. It also has two bus stops but I have not been provided with details of the frequency of the bus service or where it serves.
7. I understand that Two Ash Lane is a designated safe route to school and whilst I have no evidence to support the appellants' view that it is well used by pedestrians and cycles, I agree that there would be occasions when some people would walk or cycle to Forton to use the services on offer. Forton and the nearest bus stops would be approximately ten minutes away from the appeal site on foot.
  8. However, as a narrow, unlit rural lane with no footway which is subject to the national speed limit, it is not a route which would be accessible for everyone and I find it unlikely that people would choose to walk or cycle the route in the dark or inclement weather.
  9. The walk to Chard would be along a road with a footway. This would provide access to, amongst other things, a doctors surgery, school, supermarket, the main High Street and employment opportunities. However, I find it unlikely to that people would choose to walk or cycle this route on a regular basis, and particularly in the dark and inclement weather as the A358 is a well trafficked, unlit road and most of these facilities are in excess of 1.5 kilometres away.
  10. Therefore, whilst people may choose to walk and cycle on occasion to Chard and Forton resulting in the potential to replace short car trips, I am not persuaded that either of these are an appealing prospect that would persuade people out of their cars on anything more than an occasional basis. The fact that many residents work from home and that there is an engineering business within fifty metres of the site, does not negate the need to access basic services and facilities for day to day living.
  11. I understand that there are proposals to provide a new footpath which would link the appeal site with new housing on the edge of Chard, away from the traffic. However, as I have not been provided with details of this, evidence that this can be secured and a timetable for delivery, I have given this limited weight.
  12. In conclusion, the appeal site would not be in a location which provides realistic alternatives to the private car. Moreover, the appeal proposal would introduce new housing into the countryside in conflict with Policies SD1, SS1 and SS2 of the LP. This would harmfully undermine the spatial strategy for the location of housing contained in the development plan.

### *Highway Safety*

13. A new access onto Two Ash Lane is proposed in the north east corner of the site. This would require the removal of a section of hedgerow. The proposed access would be orientated to encourage users to exit to the right, acknowledging the deficiencies in the junction where Two Ash Lane meets the A358. Rather than raising no objection, as the appellants say, the Highway Authority have referred to their standing advice. I have not been provided with a copy of that advice.
14. The submitted plans<sup>1</sup> indicate the visibility that would be achieved at the point where the existing hedgeline meets the highway. However, this does not

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<sup>1</sup> Drawing Number CB2302.10 Visibility Splays

account for the seated position of a driver exiting the access which is typically taken to be from a position 2m back from the edge of the highway in lightly trafficked situations<sup>2</sup>. The result is that visibility to the west, as a result of the existing established hedge, would be severely restricted. Vehicles exiting the access would not have clear and unimpeded views of approaching vehicles and other highway users. This would be harmful to highway safety.

15. I acknowledge that the provision of a visibility splay to the required standard would result in the loss of hedgerow but as that proposal is not before me I am unable to assess the impact this would have. Although existing accesses along Two Ash Lane may not have the required visibility splay and no accidents have occurred, this does not mean that it is appropriate for planning permission to be granted where visibility would be woefully inadequate and harmful to all users of the highway.
16. A reduction in the use of an existing established access does not overcome the harm I have found in respect of the proposed access. The proposal is contrary to Policies TA5 and EQ2 of the LP which seek to create safe environments and ensure that the safety of local roads is not compromised.

### *Ecology*

17. The appeal site is located in a rural landscape typified by fields, hedgerows and trees. It consists of an undeveloped grass field enclosed on three sides by established hedges. Even if the site itself was found to have limited ecological value as the appellants suggest, the roadside hedge requiring removal to create the access, is a feature which could provide habitat for protected species. Therefore, there is a reasonable likelihood that protected species may be affected by the proposed development.
18. The appellant acknowledges the need for a Preliminary Ecological Appraisal (PEA) but suggests that this could be secured by a condition. Circular 06/2005<sup>3</sup> advises that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. No exceptional circumstances have been put to me in this instance.
19. The Natural Environment and Rural Communities Act 2006 (as amended) includes a duty under s40(1) that every public body must, in exercising its functions, have regard to the purpose of conserving biodiversity. The impact of the proposed development on biodiversity and protected species is therefore a material consideration in this appeal. However, in the absence of a PEA it is not possible for me to assess the impact of the proposed development, or the suitability of the proposed mitigation, on any protected species and biodiversity.
20. Accordingly, the proposal would be contrary to Policy EQ4 of the LP which seeks to protect biodiversity interests and maximise enhancement opportunities.

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<sup>2</sup> Paragraph 7.7.7 Manual for Streets

<sup>3</sup> Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

## **Other Matters**

21. The appeal site lies within the fluvial catchment of the River Axe Special Area of Conservation (SAC) where its qualifying features are considered unfavourable caused by excessive phosphates largely derived from the discharge of wastewater from development. However, given my overall conclusion, the proposal would have no effect on the SAC and therefore I have not considered this matter further.

## **Planning Balance and Conclusion**

22. The Council cannot demonstrate a five year housing land supply. Accordingly, the most important policies for determining the application are deemed to be out-of-date. In such circumstances Paragraph 11 d) of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
23. There would be benefits to the local economy from the construction and occupation of a dwelling. Whilst the extent of the housing shortfall is unknown, the appeal proposal would boost housing supply albeit to a limited extent. It would enable a local family to stay in local community although as this has not been secured by any means. I am advised that the proposal would provide sustainable heating by way of solar panels and either a ground source or air source heat pump. With the exception of solar panels to the garage, the submitted drawings do not show this provision. A condition could secure an electric car charging point on site but a condition requiring that occupiers of the proposed dwelling must only use electric vehicles would not comply with the tests set out in Paragraph 57 of the Framework. Collectively I give these benefits modest weight.
24. Balanced against this, the Framework seeks to locate housing where it would enhance or maintain the vitality of rural communities and give opportunities for villages to grow and thrive. In directing development towards Rural Settlements where there are two or more services, I am satisfied that Policies SS1 and SS2 of the LP are consistent with the Framework. Notwithstanding that the LP was adopted in 2015, I am required to give due weight to the policies according to their consistency with the Framework<sup>4</sup>. Accordingly, I give the conflict I have identified with these policies significant weight.
25. I have also identified harm to biodiversity interests, highway safety and I have also found that the proposal would not be well related to services and facilities, meaning that occupiers would be reliant on the private car for most of their journeys. This would undermine the objectives of the spatial strategy.
26. Therefore, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the presumption in favour of sustainable development does not apply. The conflict with the development plan is not

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<sup>4</sup> Paragraph 232 of the Framework

outweighed by other considerations including the Framework and the appeal is dismissed.

*Alison Fish*

INSPECTOR