
Appeal Decision

Site visit made on 12 February 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/E3335/W/24/3348456

Land at Compton Nursery, New Road, Compton Pauncefoot, Yeovil, Somerset BA22 7EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hopkins Estates Ltd against the decision of Somerset Council.
 - The application Ref 23/02499/OUT, dated 26 September 2023, was refused by notice dated 19 March 2024.
 - The development proposed is outline planning application with all matters reserved except for access for two self-build/custom build dwellings and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the development of two self-build/custom build dwellings and ancillary works on land at Compton Nursery, New Road, Compton Pauncefoot, Yeovil, Somerset BA22 7EN in accordance with the terms of the application, Ref 23/02499/OUT dated 26 September 2023 and the plans submitted with it, subject to the conditions set out in the below schedule.

Application for costs

2. An application for costs was made by Hopkins Estates Ltd against Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published during the consideration of this appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document.
4. The planning application is submitted in outline with all matters, except for access, reserved for a subsequent approval. An indicative layout (Proposed Illustrative Masterplan 1741_A01_004C) accompanies the outline planning application and I have taken this into account in so far as establishing whether or not it would be possible, in principle, to erect two detached dwellings on the site.
5. Following the submission of the appeal, further detail, along with a completed Unilateral Undertaking (UU) has been provided by the appellant in relation to the potential for adverse effects upon the integrity of the Somerset Levels and Moors Ramsar site. As a result, the Council no longer recommend that the application is refused on these grounds. Having reviewed the submitted

information, I see no reason to disagree with this and I have therefore determined the appeal on this basis. I have considered the adequacy of the UU later in my decision.

Main Issue

6. The main issue in this appeal is 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.

Reasons

7. Policy SS1 of the South Somerset Local Plan 2006-2028 (SSLP) sets out the settlement hierarchy for the plan area. Under this policy, Compton Pauncefoot is not identified as being a named settlement and, as such, is considered a rural settlement within the open countryside and subject to SSLP Policy SS2.
8. To be acceptable under Policy SS2, proposals for new housing development should meet certain exceptions, including a requirement to have access to two or more key services. In this respect, paragraphs 5.33 and 5.41 of the SSLP outlines that there may be occasions when nearby settlements effectively provide local services for each other, acting as a 'cluster'.
9. With regards to local facilities and services, there are limited facilities within Compton Pauncefoot, with only a church amongst those identified under policy SS2. South Cadbury which is approximately 1.6km away, offers a Village Hall, playground and a local pub. Further away, within North Cadbury, there is a local village shop and a Primary School.
10. Whilst the route to South Cadbury is relatively flat and is within a reasonable distance, it would be along unlit, rural roads. In this respect, I note the submissions of the appellant in relation to the nature of these roads and the overall speed and frequency of traffic which uses them, along with the lack of any history of collisions. I do not seek to bring this into question, however, due to the nature of the route, I do not consider the appeal site to lie in a location that would encourage such journeys, particularly by people with young children, elderly or people with disabilities, especially during evening hours.
11. Therefore, whilst there may be the potential for future residents to walk or cycle to access local services, I find that it is likely that most trips to access employment, schools and other everyday needs, would be made by private vehicles. Once in their cars the residents would probably also then go further than those locally, given that the range of services in these villages is limited compared to those in the urban areas such as Yeovil, Wincanton and Sherborne. As a result, given the location of the site, there is no doubt that residents of the new houses would need to travel to access services to meet daily living needs.
12. The sustainability issue is only seriously tackled by ensuring that development occurs in the right place where services and facilities are much more readily accessible. I do not find that to be the case here. I appreciate that in rural areas, the potential to provide for alternative means of transport is often limited. However, in this case, although future occupiers could at times walk or cycle to the surrounding services, in the absence of regular public transport, an increase in travel by private car would be a likely inevitable consequence of the proposal. I therefore find that the proposed development would not provide a

suitable location for housing, having regard to the development strategy for the area and the accessibility of services and facilities and, as such, would fail to accord with SSLP policies SD1, SS1 and SS2 and the Framework.

Planning Balance

13. It is accepted by the parties that the Council is unable to demonstrate a 5 year supply of deliverable housing land. Whilst no detailed figures are given, the appellant refers to this being in the region of 3 years supply.
14. In these circumstances, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. Paragraph 11 of the Framework states that where the most important policies are out of date, permission should be granted unless any adverse impacts of doing so, would significantly and demonstrably outweigh the benefits when assessed against the policies in The Framework taken as whole, or where specific policies in The Framework, indicate that development should be restricted. In this respect, I have found that the proposed development would not conflict with policies in the Framework that protect areas or assets of particular importance as set out in footnote 7 of the Framework.
15. I have also found the appeal site to be in a location that would be likely to result in future residents needing to rely upon the use of private vehicles to access the majority of local services and facilities and, as such, would conflict with policies SD1, SS1 and SS2 and the development plan as a whole. I consider these policies to be generally consistent with the overall aims of the Framework.
16. As the Council are unable to demonstrate a sufficient supply of housing land, this reduces the amount of weight to be attached to this conflict. Therefore, given the extent of the housing land supply shortfall, along with the limited scale of the proposal, I find the harm from the likely increase in travel by private vehicles to be limited. Accordingly, I have attributed this harm moderate weight against the proposed development in the overall planning balance.
17. The description of the proposed development identifies that it is for the provision of two self-build/custom build dwellings. The Self Build and Custom Housebuilding Act 2015 requires local planning authorities to maintain a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 further identifies that local planning authorities have a duty to grant planning permission to ensure enough serviced plots are provided to meet the demand and that they should have regard to the local register when making decisions on planning applications.
18. Substantial evidence has been submitted by the appellant to demonstrate that, in their view, the Council are currently failing to meet its statutory obligations with respect to providing serviced plots for self-build housing. Whilst the Council dispute the appellant's position and consider that they are meeting their requirement, no substantive evidence is before me to justify their position, or to dispute the figures put forward by the appellant. As such, based on the evidence before me, I am not able to conclude that the Council are meeting their duty to deliver sufficient self-build and custom plots to meet demand within the area.

19. The appellant has suggested an appropriately worded planning condition to ensure that the proposed units are delivered as self-build units. As such, I am satisfied that this would be sufficient to ensure their delivery. Therefore, whilst the proposed development would make only a limited contribution to the supply of housing, given the extent of the current shortfall in supply of both housing land and custom-building plots, I have attributed the provision of two additional houses significant weight in favour of the proposed development.
20. The appeal site was previously used as a nursery and there are still obvious signs of this previous use on the site, including a number of glasshouses and associated outbuildings. Whilst not readily visible from surrounding viewpoints, where they are, due to their dilapidated state, their presence harms the character of the area. The proposed development would remove these and, whilst the appearance and design of the proposed dwellings is not currently before me, I am confident that they would be more in keeping with the area than the current appearance of the appeal site. However, given that the exact details are not before me I have attributed this benefit limited weight in the overall planning balance.
21. The proposed dwellings would be designed to accommodate home working and would have access to appropriate broadband to support this. Home working can reduce individual car journeys or change them to times of the day when the roads are often less congested, however there can be no guarantees that this will happen. Electric vehicle charging points are also likely to encourage future occupants to shift to ultra-low and zero emission vehicles, but again there is no certainty that such measures would. This attracts limited weight in favour of the proposed development.
22. The Framework identifies that small sites can often be delivered relatively quickly and can therefore make an important contribution to meeting the housing requirement of an area. There would also be a small benefit associated with the future occupiers from their potential to support the existing community and nearby services. I have attributed these moderate weight in the overall planning balance.
23. There would also be some economic advantages from the construction of the proposed dwellings, although given the limited size of the proposal, this attracts limited weight in the overall planning balance.
24. Furthermore, I note that the Council raise no other issues in relation to ecology, highways and impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.
25. 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.

Planning Obligation

26. A Unilateral Undertaking (UU) pursuant to Section 106 of the Act is before me. The UU contains various provisions related to the layout and provision of a woodland to mitigate the phosphates that would be produced by the

development of the site. There is no dispute between the parties relating to the provisions of the UU.

27. I am satisfied that its content is fit for purpose and secures the provision of the woodland, as well as securing its long-term maintenance and monitoring. With reference to Paragraph 57 of the Framework, the UU is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Conditions

28. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. I have made a number of minor changes to the format of the conditions to improve their legibility and precision.
29. As well as the standard time limit for commencement, and a reserved matters condition, a condition requiring adherence to the approved plans is necessary for certainty.
30. Conditions are necessary in relation to the implementation of landscaping along with measures to enhance biodiversity. It is also necessary to require the submission of a Construction Environmental Management Plan, along with a condition requiring the submission of a Landscape and Ecology Management Plan. To ensure the biodiversity enhancement measures are provided, it is necessary to attach a condition requiring the submission of a Biodiversity Enhancement Plan. For the same reason, it is necessary to require details of external lighting is submitted.
31. It is necessary to attach a condition requiring details of surface water drainage to be submitted and approved. To ensure the protection of nearby sites, it is necessary to require details of the package treatment plants to be submitted and ensure these are in place prior to the occupation of the dwellings.
32. To protect the character and appearance of the area, it is necessary to attach a condition requiring the approval of materials to be used. For the same reason, details are required in relation to tree protection measures.
33. In the interests of highway safety, it is necessary to attach a condition to ensure the provision of adequate visibility splays. It is necessary to attach conditions relating to the installation of electric vehicle charging points and for appropriate measures to minimise water usage. To ensure the proposed development is brought forward as custom/self-build properties, it is necessary to attach a condition to require this.

Conclusion

34. I therefore conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions

Adrian Hunter

INSPECTOR

Schedule of Conditions

1. No part of the development hereby approved shall commence until details of all reserved matters, including layout, appearance, scale, and landscaping have been submitted to and approved in writing by the local planning authority.
2. An application for approval of any reserved matters shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The proposed development shall be carried out in accordance with the following plans and details, unless otherwise agreed by the Local Planning Authority: Site Location Plan (Ref: 1741_A01_001); Existing Block Plan (Ref: 1741_A01_002); and Proposed Illustrative Masterplan (Ref: 1741_A01_004C).
5. The layout and landscaping scheme submitted in accordance with Condition 1 of this outline grant of planning permission shall include details of:
 - The enhancement of the site for biodiversity purposes, in accordance with Sections 5 and 6 of the submitted Ecological Impact Assessment dated 21st June 2023, to include timescales for implementation and future management of the approved enhancement measures;
 - Planting plans (to a recognised scale) and schedules indicating the location, number, species, density, spacings, forms, root types/root volumes and size of proposed tree, hedge and shrub;
 - The method and specifications for operations associated with installation including ground preparation, the use of bio-degradable weed-suppressing geotextile, staking/supporting, tying, guarding, strimmer-guarding and surface mulching; and planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - Written specifications including cultivation and other operations associated with tree, plant and grass establishment;
 - Existing landscape features such as trees, hedges and shrubs which are to be retained and/or removed, accurately plotted (where appropriate);
 - Existing and proposed finished levels (to include details of grading and contouring of land and any earthworks and details showing the relationship of any proposed mounding to existing vegetation and surrounding landform where appropriate);
 - The means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates, ramps, or other supporting structures);
 - The location, type and materials to be used for hard surfacing (including where applicable for permeable paving, refuse/recycling storage areas, tree pit design, underground modular systems, and sustainable urban drainage integration), including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved;

- The position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge (banks)), where appropriate;
 - An on-going management and maintenance plan of all the approved landscaping features; and
 - A timetable for the implementation of the approved hard and soft landscaping scheme. The approved hard and soft landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, managed and maintained in accordance with the approved scheme.
6. No development shall commence on the surface water drainage system until details of the surface water drainage scheme based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details.
7. Prior to first occupation of any of the dwellings hereby permitted, written evidence and details of the acquisition and installation of the package treatment plants for each dwelling and drainage field in accordance with details set out in the Nutrient Neutrality and Mitigation Statement (NNAMS) and Mitigation Strategy dated 22 September 2023, including an agreed scheme for maintenance and ownership in perpetuity, shall be submitted to and approved in writing by the Local Planning Authority. Such evidence and details shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for maintenance of the package treatment plants, the permanent connection of the dwellings hereby permitted to said package treatment plants (unless the Local planning Authority gives any prior written approval to any variation), and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development. The package treatment plants shall be installed as per the details submitted with the application and maintained and retained in perpetuity as per the manufacturer's instructions and the details hereby approved.
8. Should the Package Treatment Plant hereby approved reach the end of its operational life during the lifetime of the proposed development, it must be replaced with an alternative Package Treatment Plant of equivalent or greater efficiency (94.5 %).
9. Any future reserved matters application is to be supported by a Construction Environmental Management Plan (CEMP: Biodiversity) which shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- Risk assessment of potentially damaging construction activities.
 - Identification of "biodiversity protection zones".
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, a non-licensed method statement for GCN and reptiles, badger and habitat buffer zones, tree and scrub retention and

protection measures, pre-works checks of the buildings before demolition, etc.

- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person, including regular compliance site meetings with the Council Biodiversity Officer and Landscape Officer (frequency to be agreed, for example, every 3 months during construction phases).
- Use of protective fences, exclusion barriers and warning signs.
- Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

10. Any future reserved matters application is to be supported by a Landscape and Ecological Management Plan (LEMP) which shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- Description and evaluation of features to be managed.
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions.
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organisation responsible for implementation of the plan.
- On-going monitoring and remedial measures.

The approved plan will be implemented in accordance with the approved details.

11. There shall be no works above slab level until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

12. Prior to occupation, a "lighting design for bats" 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 or having access to their resting places. The boundaries of the site should not be lit. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
13. A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to completion of the development. Photographs of the installed features will also be submitted to the Local Planning Authority prior to occupation of the development. The content of the BEP shall include the following:
 - A Habitat 001 box (or similar) will be mounted at least four metres above ground level and away from windows, on the south and/or west facing elevations of each dwelling and maintained thereafter.
 - Two Schwegler swallow nest cups (or similar) directly under the eaves and away from windows on the north and/or east elevation of each dwelling.
 - A bee brick built into the wall about 1 metre above ground level on the south or east elevation of each dwelling.
 - Two Vivara Pro Woodstone Nest Box (32mm hole version) or similar mounted on to a mature tree on site, at a height between 1.5 and 3m.
 - Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site.
 - Installation of new native species rich hedgerow to be planted between properties and on the boundaries of the development comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle.
 - 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.
 - One hibernacula/log pile as a resting place for reptiles and or amphibians constructed on the site boundary, ideally near the retained scrub.
14. In advance of carrying out the works outlined in the Arboricultural Impact Assessment and Tree Protection Plan dated 23rd August 2023, a Section 211 Notice must be made to Somerset Council for the removal of one group of Trees (G1) that is located inside a Conservation Area.
15. No retained tree or hedge as identified in the Arboricultural Impact Assessment and Tree Protection Plan dated 23rd August 2023 shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge be reduced or pruned, other than in accordance with the prior written approval of the local planning authority. If any retained tree or hedge is removed, uprooted, destroyed or

dies, a replacement shall be planted in accordance with details of species, size, position and time of planting to be agreed with the local planning authority.

Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedge to be retained:

- Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedge.
 - No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedge.
 - No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedge.
 - No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedge as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
 - No vehicles shall be driven over the area within the approved protection zone of the tree or hedge.
 - No materials or equipment shall be stored within the approved protection zone of the tree or hedge as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.
16. The vehicular access to serve the development shall not be used until visibility splays of 2.4m by 20.4m to the north and 2.4m by 31.5m to the south have been provided, in accordance with the details on Site Access drawing no. 1238-001 in the Transport Technical Note. The visibility splays shall thereafter be maintained free of all obstruction to visibility above 0.6m in height.
17. No dwelling hereby permitted shall be occupied until electric vehicle charging points (EVCP's) rated at a minimum of 16 amps have been provided for each dwelling within its associated garage or parking area. Such provision shall be in accordance with details indicating siting, numbers, design, rating, appearance of the EVCP's and constructional specifications. These details shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling and thereafter retained.
18. The dwellings hereby approved shall be custom/self-build properties only.
19. No individual dwelling hereby approved shall be occupied until the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with.