
Appeal Decision

Site visit made on 4 March 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 April 2025

Appeal Ref: APP/D0121/W/24/3346103

Land at Burnt House Farm, North End Road, Yatton BS49 4GH

- 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 Mr Stephen Rogers against the decision of North Somerset Council.
 - The application Ref is 23/P/1938/OUT.
 - The development proposed is the erection of 1no. new dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Stephen Rogers against North Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have amended the description of development above, removing wording that does not describe development.
4. The application is in outline, with access, layout, appearance, scale and landscaping reserved for future consideration. Drawing SP02, a proposed site plan, is therefore indicative only.
5. Additional information was provided with the appeal, namely a review of the alternative sites provided by the Council. The Council has had opportunity to comment on this review, and I have taken into account the comments received. As such, there is no harm to natural justice in my considering this additional information.
6. Following further advice regarding national guidance, the Council is not pursuing the part of refusal reason 2 that relates to requiring the provision of wider sustainability benefits to the community that outweigh the flood risk.
7. The Government published in December 2024 a revised version of the National Planning Policy Framework (the Framework). Both main parties have had opportunity to comment on the matter and I have taken into account any representations made.

Main Issues

8. As such, the main issues in this case are:

- whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding; and
- whether the appeal site is a suitable location for the proposal having regard to the development plan and national strategy.

Reasons

Flood risk

9. The site is located within Environmental Agency (EA) flood zone 1. However, the Strategic Flood Risk Assessment shows that this will increase to flood zone 3a because of a projected sea level rise.
10. Even if the site should be considered within flood zone 2, the Planning Practice Guidance (PPG) and guidance from the EA states that a sequential test (ST) is necessary.
11. The PPG states that the aim of the sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas, considering all sources of flooding.
12. The PPG states sites should be in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'.
13. The submitted ST details a search covering the North Somerset area for alternative sites of a similar size and a similar value to the appeal site. No suitable alternative sites were found.
14. However, the ST does not consider, or discounts, sites with existing permissions. I have not been provided with any compelling reason why sites with outline planning permission, within flood zone 1, as identified by the Council¹, should be excluded. There is no reason why such sites would not, in principle, be able to come forward at reserved matters stage and be available to be developed. As such, it is reasonable that the search criteria include these sites as potentially available.
15. Moreover, the search for sites within the ST identifying plots of a suitable size does not seem to include larger sites, if these would be capable of accommodating the proposed development.
16. I have insufficient evidence before me that any other sites are unsuitable for the type of development proposed and that all reasonably available sites have formed part of the sequential test. Therefore, it has not been adequately demonstrated there are no suitable sites for the proposal in areas of lower risk of flooding.
17. The appellant's Flood Risk Assessment indicates that the proposed development will be safe, that it would not increase flood risk elsewhere and planning conditions could be imposed concerning flood resilience measures. However, this does not negate the requirement for a robust sequential test to be passed.

¹ Residential Land Survey and Housing Land Supply Position Data Table (April 2024),

18. The example² provided by the appellant was of a scheme for up to 190 dwellings. As such, the weight given to benefits are significantly greater. Moreover, it is not demonstrated that the context of that particular site and development in terms of design and managing risk for example, are directly comparable to the site and scheme before me.
19. Consequently, I conclude that the proposal would not comply with policies that seek to steer new development away from areas at the highest risk from flooding, including Policy CS3 of the Core Strategy (2017) (CS) and Policy DM1 of the North Somerset Sites and Policies Plan (Part 1) 2016 (PP). These policies seek amongst other things, to reduce flood risk overall and ensure that the impact of new development on flooding is fully taken into account.

Location

20. The appeal site is located outside of any identified settlement boundary as defined by Policy SA2 of the adopted Sites and Policies Plan Part 2 (Site Allocations Plan) (2018) (PP2), and is therefore, for the purposes of policy, is in the countryside.
21. CS Policy CS14 is a strategic policy setting out the hierarchy of housing location, based on sustainability principles. The wider strategy of these policies is to direct new housing towards the most appropriate locations, principally in respect of services and facilities and transport accessibility.
22. CS Policy CS33 sets out that development within the countryside will be strictly controlled in order to protect the character of the rural area and prevent unsustainable development. The proposal does not meet the criteria of this policy. CS Policy CS14 continues by confirming that development outside settlement boundaries will only be permitted where the site is allocated in the local plan or it comprises sustainable development that accords with the criteria set out in the relevant settlement policies of the Core Strategy. It is not stated that the proposal will be for a rural worker, and as such it would not meet the requirements of PP Policy DM46.
23. I observed that the site provides safe and convenient access to the numerous services and facilities of Yatton. The appeal site is therefore well connected and accordingly, the intended future occupiers of the new dwelling would not necessarily be likely to have a high reliance on a private motor vehicle to access day to day services. Moreover, given the residential development on three sides of the appeal site, the proposal would not appear to be incongruously protruding into the countryside nor harm its character.
24. I observed the substantial new residential development extending out further from the centre of Yatton than the appeal site. The proposal would not conflict with the access to services, facilities and transport accessibility, and protection of the character of the rural area goals of the development plan. Nevertheless, the proposal does not meet any of the circumstances for new development within the countryside and therefore conflicts with CS Policies CS14 and CS33, and PP2 Policy SA2, which seek to control the distribution of housing.

² Appeal Ref: APP/D0121/W/24/3343144

Other Matters

25. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. The Council set out that the proposal is located within Bat Consultation Zones B (Greater) and C (Lesser). The submitted preliminary ecological assessment³ sets out that there are no habitats suitable on site for roosting bats, and sensitive lighting design could prevent undue harm to any commuting or foraging bats.
26. Based on what I observed on site and from the information before me, I am satisfied with the Council's conclusion that the proposal would have a negligible impact on local wildlife. There is no conflict therefore with the protection of protected species requirements of the Framework, in addition to the Habitats Regulations.

Planning balance and conclusion

27. The proposal would result in an additional unit of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities. I also acknowledge that the development would make efficient use of the site, as supported by the Framework. The proposal would also result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, such benefits would be small.
28. Whilst this would be sufficient to outweigh the minor harm that would arise from the conflict with CS Policies CS14 and CS33 and PP2 Policy SA2 in terms of the distribution of housing, the conflict with CS Policy CS3 and PP Policy DM1 in relation to flood risk carries significant weight. This is because the Framework requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
29. In accordance with footnote 7, this also means that paragraph 11d ii of the Framework does not apply.
30. The identified harm means the proposal would not accord with the development plan policies when read as a whole. The benefits and other considerations are of insufficient weight to justify granting planning permission contrary to the development plan. As such, I conclude that the appeal is dismissed.

B Phillips

INSPECTOR

³ By Fenswood Ecology, September 2023