



Appeal Decision

Site visit made on 29 April 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Appeal Ref: APP/E3335/W/25/3359859

The Field of Study, Milverton Road (B3187), Runnington, Wellington, Somerset TA21 0QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Simon Masters against the decision of Somerset Council.
 - The application Ref is 21/24/0006/PIP.
 - The development proposed is application for 2 self/custom build low-carbon dwellings with electric car charging points, and upgrade to foul water system.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Simon Masters against the decision of Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading above has been taken from the application form as I have not been provided with written confirmation that a revised description has been agreed.
4. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first (permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these stages.
5. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters, including the size of the dwellings, effect on living conditions, flood risk and drainage, highway safety and the scale and appearance of the proposal, are considered as part of a subsequent Technical Details Consent (TDC) application if permission in principle is granted. I have therefore determined the appeal accordingly and have treated the Site Layout proposed (indicative)² as indicative only.

Main Issues

6. The main issues are:

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

² Drawing no: WM-SLP-240517

- whether the proposal would be a habitats development under Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended); and,
- whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Whether habitats development

7. There is no dispute between the main parties that the site lies within the catchment for the Somerset Levels and Moors Ramsar site (Ramsar Site). I have no reason to disagree.
8. Under Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (the Order), permission in principle must not be granted for development which is habitats development. Habitats development means development which is likely to have a significant effect on a qualifying European site either alone or in combination with other plans or projects. There is a specific process to deem what would constitute habitats development which I must assess.
9. The PPG gives the scope of the permission in principle stage as being limited to those matters set out in paragraph 5 above, with all other matters deferred to the TDC stage. However, it also makes it clear that permission in principle cannot be granted for habitats development. Habitats development is defined in the Order as development likely to have a significant effect on a European designated site either alone or in combination with other projects. The Habitats Regulations impose the duty on me, as the competent authority, to make that assessment, i.e. to consider whether the proposal would be likely to have a significant effect on the integrity of the Ramsar Site, either alone or in combination with other plans and projects.
10. The Ramsar site is designated for its internationally important wetland features including floristic and invertebrate diversity and consists of a series of SSSIs within an area of lowland wet grassland and associated wetland habitat. The Qualifying Features of the Ramsar Site include 17 species of Red Data Book invertebrates, vascular plants *Wolffia arrhizal*, *Hydrocharis morsus-ranae* and *Peucedanum palustre*, waterfowl, Eurasian teal, Northern lapwing, Eurasian wigeon, Nute swan, Northern pintail and Northern shoveler. The Ramsar Site designation therefore recognises the international importance of the area.
11. The Ramsar Site is in an 'unfavourable' condition due to poor water quality as a result of elevated concentrations of phosphorus. This ultimately results in harm linked to eutrophication in the form, of excessive algae growth adversely affecting the ditch invertebrate and plant communities. A proportion of the phosphorus entering the Ramsar Site catchment is from human sewage discharge. As a result, any increase in overnight accommodation is likely to result in an increase in the discharge of phosphorus entering the Ramsar Site causing a likely significant effect on its integrity. Therefore, the proposal, alone and in combination with other developments, would be likely to have significant effects on the integrity of the SAC. The development therefore constitutes habitats development.
12. The Council's strategy for avoiding an adverse effect from phosphorus is to ensure that all planning applications for residential development, amongst others,

demonstrate phosphate neutrality. In relation to this, the appellant states that the land in his ownership benefits from a 'fallback' position for the use as a campsite under Permitted Development Rights for 28 days a year. Considering this, the appellant has provided a Nutrient Neutrality Statement demonstrating how the appeal proposal would result in net reduction in phosphate loading in comparison to the 'fallback' position. To ensure the reduction is achieved, the appellant has offered to relinquish permitted development rights for 28 days of camping for land in his ownership. The 'fallback' position is a material consideration.

13. However, from the information before me and from my site visit, there was no evidence of the appellant's land having been used as a campsite, and no evidence of it being prepared for such use. Due to this and given the current use of the site for housing, management of the land and the grazing of a horse, I do not find that there is a greater than theoretical possibility, and no clear and real prospect that the 'fallback' position would be exercised. Furthermore, and even if there was a real prospect of the 'fallback' position, or other suggested use of the site for pig-rearing being exercised, I cannot be certain that any adverse effect on integrity would be avoided through provision of a suitable obligation at the TDC stage. Moreover, the appeal is not accompanied by a legal agreement or other suitable mechanism to relinquish the permitted development rights for 28 days of camping or pig-rearing at the TDC stage. Given these matters, I cannot be sure that the proposal would result in an overall reduction in phosphate loading.
14. The appellant states that the Council have accepted fallback positions as legitimate phosphate mitigation strategies with the inconsistency undermining confidence. However, I have not been provided with details of other similar fallback positions accepted by the Council and as such cannot conclude that they are directly comparable. Furthermore, I am required to consider the appeal on its merits.
15. Consequently, and in the absence of any other mitigation, I cannot be satisfied that the additional recreational impacts, and likely significant effects on the integrity of the Ramsar Site by the future occupiers of the development would be avoided. The proposal would therefore conflict with Policy CP8 of the Adopted Taunton Deane Core Strategy 2011 – 2028 Development Plan Document September 2012 (CS). Amongst other things, this aims to ensure that proposals that will have an adverse impact on Natura 2000 and Ramsar sites and/or features which provide ecological support for their conservation objectives will not be supported. It would also conflict with Section 15 of the National Planning Policy Framework (the Framework) which seeks to conserve and enhance the natural environment.
16. As the competent authority, I have carried out an appropriate assessment of the effect of the proposed development as required by the Regulations. Overall, I conclude that the proposal would constitute habitats development which is excluded from a grant of permission in principle under Article 5B of the Order. Consequently, it is development for which an application for planning permission is required. Such an application would be a matter for the local planning authority to consider in the first instance.

Whether suitable site for residential development

17. There is no dispute between the main parties that in terms of the 'amount' of development, the site is of a sufficient size to accommodate two dwellings. I have no reason to disagree.

18. There is also no dispute between the main parties that the appeal site consists of unallocated greenfield land outside of settlement boundaries defined under CS Policy SP1. The evidence before me does not indicate otherwise, and the site is therefore treated as countryside for planning policy purposes.
19. Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan (2016) (DMP) states that in order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of settlement boundaries will be treated as open countryside. It further states that such proposals will be assessed against CS policies CP1, CP8 and DM2 unless it accords with a specific development plan policy.
20. CS Policy CP1 states that development proposal should result in a sustainable environment, and amongst other things, reduce the need to travel through locational decisions. In this regard, CS Policy CP8 states that development will be supported at sustainable locations to improve green infrastructure, public access, visual amenity and the overall quality of the natural environment. It further states that unallocated greenfield land outside of settlement boundaries will be protected and where possible enhanced with development strictly controlled in order to conserve the environmental assets and open character of the area. As a result, development outside of settlement boundaries will be permitted, amongst other criteria that are not relevant to the appeal site, where in accordance with national, regional and local policies, where appropriate in terms of scale, siting and design, where it protects, conserves or enhances landscape and townscapes and protects habitats and species. I have found above that the proposal would not protect habitats and species.
21. CS Policy DMP2 specifically supports community uses, business use, holiday and tourism, non-residential agriculture and forestry buildings, replacement dwellings, affordable housing, conversion of existing buildings and essential utilities infrastructure. As a result, and although the policy does not specifically exclude residential development, the policy does not offer specific support for the proposal.
22. In relation to this, I have had regard to the location of the site a relatively short distance from the edge of the built form of Wellington and to DMP Policy A5 that states that residential development should be within walking distance of services and facilities with acceptable walking distances to bus stops of 400m and local shops 800m. However, access to its services and facilities from the site is reliant on a narrow lane and a B-road that do not benefit from any lighting or pavements close to the appeal site. Moreover, the nearest train station is approximately 10 miles from the site with Wellington Town Centre approximately 2 miles from the site. Considering this, I do not find the route to be attractive for walkers or cyclists. As such, the proposal would be reliant upon the use of a motor vehicle and would not therefore suitably reduce the need to travel. This would be the case despite the provision of on-site electric car changing points.
23. Furthermore, and although I recognise the historic ownership, planting and sustainable management of the site by the appellant, and location of nearby development, the introduction of two dwellings with their associated paraphernalia and activity would diminish the generally open rural quality and appearance of the site and wider environment as they would be visible through the boundary planting, from within the site and would extend urban built form and sprawl into the countryside. While landscaping could be used to screen the development, the

purpose of landscaping should be to assimilate development into its environment rather than to screen development that may appear out of context. As such, the proposal would fail to protect or conserve the open character of the area with the harm occurring regardless of any other nearby development.

24. I have had regard to paragraph 84 of the Framework and in this regard, criteria a), b), c), and d) are not relevant as the proposal is for open market housing. With regard to criteria e), there is limited information before me, and it has not been argued, that the proposed design would be of exceptional quality in terms of being truly outstanding and significantly enhancing its immediate setting.
25. It follows from the above that although the amount of development would be acceptable for the size of the site, I conclude that the site is not suitable for residential development, having regard to its location and the proposed land use. As such, it is contrary to CS Policies SP1, CP1 and CP8, DMP Policy A5 and the Framework, the aims of which I have outlined above.

Other Considerations and Planning Balance

26. I acknowledge the matters raised by the appellant with regard to his and Mr Winter's families' circumstances and specific needs, attendance of children at local schools, consideration of human rights, noise benefits, strong local ties, threat of enforcement action and to the lack of self-build opportunities. However, I have very limited information before me in relation to these matters to be able to assess them fully. As a result, and if I were able to conclude that the proposal did not constitute habitats development and was not excluded from a grant of permission in principle under Article 5B of the Order, I would have sought more information in relation to these matters. However, and in relation to this appeal, such matters do not overcome the exclusion of the proposal from a grant of permission in principle under Article 5B or need for an application for planning permission.
27. Similarly, I have had regard to the addition of two low carbon dwellings contributing towards the supply of homes in the area, support towards rural vitality and addressing the Frameworks increased housing targets. However, these benefits are limited by the small scale of the proposal, carry limited weight and do not outweigh the conflict with the development plan as a whole. Furthermore, these matters do not overcome the need for an application for planning permission.
28. Both parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Nonetheless, I have found above that the proposal would cause harm to the Somerset Levels and Moors Ramsar site. This is contrary to the provisions of Chapter 16 of the Framework that protects such habitats. Given footnote 7 to Paragraph 11 d) 1. of the Framework, and the harm I have identified to the asset of particular importance, this provides a strong reason for refusing the development and there is no need for me to carry out the assessment in Paragraph 11. d) ii. of the Framework.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR