



Appeal Decision

Site visit made on 10 June 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025

Appeal Ref: APP/F0114/W/25/3360462

Land At Mill Road, Radstock BA3 3PX

- 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 Mrs Diane Gregory against the decision of Bath and North East Somerset Council.
 - The application Ref is 24/04649/PIP.
 - The development proposed is terrace of 3 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. The appeal site address in the header above is taken from the application form. For completeness I have added the post code from the Council's questionnaire.
3. Permission in principle is an alternative way of obtaining planning permission that separates out consideration of matters of principle from technical details. The scope of permission in principle is limited to the location, land use and amount of development and my assessment focuses on these matters. A proposed block plan has been provided by the appellant. I have treated this as being submitted for indicative purposes as the layout of the development is a matter to be determined at the technical details consent stage.
4. The main issues are whether the site is suitable in principle for 3 dwellings having regard to its location, the proposed land use and the amount of development and (i) the matter of flood risk, (ii) the effect on the character and appearance of the Radstock Conservation Area (the CA), and (iii) the spatial strategy as set out in the development plan,

Reasons

Flood risk.

5. The appeal site consists of land that slopes up from the road on the south side of Mill Lane. A plan provided by the appellant shows the road as well as the front of the site lie in flood zones 2 and 3, meaning it is land that is at medium and high risk of flooding.
6. Policy CP5 of the Bath and North East Somerset Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update 2023 (the CSPP) advocates a sequential approach to flood risk. This means directing development away from

the areas of higher risk of flooding, in line with government policy as set out in the National Planning Policy Framework (the Framework). At paragraph 174, the Framework explains the aim of the sequential test (ST). This stipulates that permission should not be granted if there are reasonably available sites appropriate for the proposed development in areas of lower flood risk.

7. Details of the proposal are not before me for consideration. However, the flood risk plan provided strongly indicates that at least the access to the proposed development is bound to lie within an area identified as being at risk of flooding. Indeed, the appellant accepts through their final comments that the ST is applicable to the proposal.
8. The appellant's submissions fail to show there are no available sites for the proposed development on land at a lower risk of flooding. As such, I find the ST has not been met. The lack of information to address the ST means the proposal would not be in a suitable location in principle as it would introduce development on land at flood risk when other land at a lower risk may be available.
9. I am referred by the appellant to appeal decision reference number APP/F0114/W/22/3313796. This grants permission in principle for the erection of 3 dwellings at The Magpies on Mill Road. The flood zone information provided with this appeal indicates that part of The Magpies site also falls within flood zones 2 and 3. However, the decision notice includes no mention of the issue of flood risk and so it does not explicitly endorse the contention that the ST is to be considered at technical details stage. Therefore, it would not be inconsistent with this previous appeal decision to find the ST needs to be addressed before permission in principle is granted.
10. Under the terms of paragraph 181 of the Framework, planning applications involving development in flood zones 2 and 3 should be accompanied by a flood risk assessment (FRA). This is needed to demonstrate the proposal would not increase flood risk elsewhere and that the development would be resistant and resilient to flooding. These are matters of detail that, in this case, could be appropriately addressed at the technical details consent stage. As such, I find the lack of a FRA does not prevent the grant of permission in principle.
11. However, in the absence of information to show compliance with the ST, I conclude the location of the proposal would not accord with policies that seek to direct development to areas at the lowest risk of flooding. In these regards, the proposal would be contrary to CSPP policy CP5 as well as the Framework.

Radstock Conservation Area.

12. The CA covers most of the central area of Radstock as well as parts of the surrounding landscape. The Council refers me to part of the Conservation Area Assessment for Radstock (the assessment) that was published in 1999. The appellant suggests this assessment is now out of date as it has not been reviewed since being published. However, I see no reason why its description of the qualities of the CA have since become irrelevant.
13. The assessment refers to the Writhlington collieries and the surrounding visual envelope formed by the landscape. There is also reference to a disused tramway to the rear of Frome Road which lies above the appeal site. The assessment also highlights the important reciprocal views of hillsides. I understand this to mean the

views of the sloping sides of the valley in which the appeal site sits. Consequently, the significance of the CA lies not just with its historic mining and industrial interest but also with the visual attractiveness of the vegetated sloping land to the sides of the valley. The site contributes positively towards the qualities of the area as it forms part of the land rising from the road and as it contains mature trees that are clearly visible from Mill Road and nearby properties. The poles and overhead wires already on the site cause only a minor distraction to the attractiveness of the slope.

14. The proposed terrace is bound to be clearly seen from Mill Road and from the surrounding area as it would be on land that rises above the highway. Also, the development would erode the vegetated and natural appearance of the site and it would obstruct and spoil views of nearby trees. It is suggested that a sensitive design for the housing could be secured through the technical details procedure. However, a development that is sympathetic in appearance to other local dwellings would not address nor override the detrimental effect on attractive views of the slope. It seems likely the proposal would require the removal of the poles and overhead wires. However, this would not fully offset nor overcome the more harmful effect of 3 houses on the visual qualities of the area.
15. The Inspector for the appeal relating to The Magpies found the development on that site would relate well to existing built form. However, The Magpies is near to buildings whereas the plot subject of this appeal is separated from The Magpies by an open area and line of mature trees. As such, I am not bound to arrive at the same conclusion as the previous Inspector in my assessment of this appeal.
16. The development would be set well below the line of the referred to tramway that the appellant advises has now been removed. Therefore, the proposal would not cause harm to any features of historic industrial or mining interest.
17. Nonetheless, for the reasons given above, I conclude the proposal by reason of its location, the land use and amount of development proposed would not preserve nor enhance the character or appearance of the CA and so it would be detrimental to the CA's significance. This would be less than substantial harm as only a part of the CA would be affected by the scheme. In such circumstances, the Framework and CSPP policy HE1 require an assessment of the harm against any public benefits of the development. This is addressed later on in my decision.

Suitability of the location having regard to the development plan.

18. Policy DW1 of the CSPP sets out an overarching strategy for the area. Amongst other things, it looks to focus new housing in specified locations, including at the Somer Valley in which Radstock lies. Also, it seeks to locate development in rural areas at settlements with a good range of local facilities and with good access to public transport.
19. The development would be opposite an employment area with various businesses. Also, it would be within a short walking distance of the centre area of Radstock where there are various shops and other facilities including bus stops. Pavements run only partly along Mill Lane up to the appeal site but the highway provides a suitable environment for pedestrians as it is fairly wide and it seems to carry a low level of traffic. Therefore, the location of the development would provide acceptable levels of accessibility to a reasonable range of local facilities and public transport links. As such, the proposal would accord with CSPP policy DW1.

20. Under policy SV1 of the CSPP, new homes are permissible within a housing development boundary (HDB) and on previously developed sites that adjoin or are closely related to a HDB. Also, housing development on sites outside the HDB is permissible if accepted under the policies of an adopted neighbourhood plan.
21. Although near to the centre of the settlement, the appeal site is outside the Radstock HDB. Also, whilst the application form says the land is brownfield, the site is largely vegetated and contains no buildings. As such, it is not previously developed land. No claim is made that the proposal would be permissible under the terms of any neighbourhood plan. Therefore, CSPP policy SV1 offers no support for the location of the development. Also, there is no claim the proposal would provide housing for rural workers as allowed under CSPP policy RE4.
22. However, to my mind, the determinative factor with this main issue is that the proposal would accord with the overarching strategy as set out in CSPP policy DW1. Therefore, I conclude the proposal would be in a suitable location when having regard to the development plan when read as a whole and despite the proposal not being supported by CSPP policies SV1 and RE4.

Other Considerations and Heritage and Planning Balance

23. The proposal would cause harm and be unacceptable for the reasons as set out under the first and second main issues. It follows to consider whether other factors justify granting permission in principle despite the harm that would be caused.
24. The Council is unable to demonstrate the minimum 5 years' supply of land for housing as required under the terms of the Framework. In such circumstances, paragraph 11(d) of the Framework is relevant. However, the failure to comply with the Framework's policies on areas at risk of flooding provides a strong reason why permission in principle should be refused. Therefore, the circumstances at sub-paragraph 11(d)(i) exist and so the presumption in favour of granting permission as set out under the Framework's paragraph 11(d) does not apply.
25. Also, in light of paragraph 212 of the Framework, I attach great weight to the harm that would be caused to the significance of the CA. At the same time, the proposal would add to the housing stock. Furthermore, the development could be designed to bring a net gain to the biodiversity value of the site. These public benefits are afforded significant weight, particularly in light of the shortage of housing land supply. However, even when considered together, they do not outweigh the harm that would be caused by the proposal to the CA. Consequently, I conclude the development would be contrary to LP policy HE1.
26. Furthermore, the advantages of the development do not justify granting permission in principle contrary to the identified conflict with the provisions in the CSPP and the Framework on flood risk. The proposal would be contrary to the policies of the CSPP when read as a whole and the benefits and other factors fail to justify granting permission in principle.

Conclusion

27. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR