
Appeal Decision

Site visit made on 30 May 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 July 2025

Appeal Ref: APP/F0114/W/25/3363091

Hartley Wood, King Lane, Clutton, Bristol BS39 5QA

- 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 Richard Evans against the decision of Bath and North East Somerset Council.
 - The application Ref is 23/04243/OUT.
 - The development proposed is the erection of 9 residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 residential dwellings at Hartley Wood, King Lane, Clutton, Bristol BS39 5QA in accordance with the terms of the application, Ref 23/04243/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission with appearance, landscaping, layout and scale identified as reserved matters. As such, where the proposed site plans show any information relating to these matters, I have treated this as illustrative for the purposes of making my decision.

Main Issue

3. The site is located within the Green Belt. However, the Council is satisfied that the proposal would not represent inappropriate development within the Green Belt on the basis that it would meet the requirements of paragraph 154(g) of the National Planning Policy Framework (the Framework). This states that the partial or complete redevelopment of previously developed land is not inappropriate providing that it would not have a greater impact on the openness of the Green Belt than the existing development. Based on the evidence before me, I have no reason to disagree with the Council's conclusions in this regard.
4. The main issue is therefore whether the proposed development would be in a suitable location, taking account of the Council's spatial strategy and access to services and facilities.

Reasons

5. The appeal site is located within the countryside, outside of the village of Clutton. Policy DW1 of the Council's Core Strategy and Placemaking Plan, Volume 1 District wide Strategy and Policies, January 2023 (the CS), sets out that the overarching strategy is to promote sustainable development, including by focusing

new housing on the main settlements. Part (d) of the policy notes that development in rural areas should be located in settlements with a good range of facilities and with good access to public transport. Similarly, Policy CNP3 of the Clutton Neighbourhood Plan 2015 – 2035 (the NP) states that new development should be located within the Housing Development Boundary unless it is to provide 100% affordable housing. Indeed, it also notes that development within the Green Belt will only be supported as a rural exception site to provide affordable homes for local people in housing need.

6. On this basis, it is clear that the proposed development for nine open market homes, being outside of any defined settlement or development boundary, would be in conflict with the spatial strategy for the area.
7. Part of the reason for directing new development towards the main towns or larger villages is to ensure that people do not have a reliance on the private car to move around. In this instance, the site is a short distance from the village of Clutton where there are some limited facilities, including a public house, primary school and village hall. In order to access other services such as secondary schools and supermarkets, occupiers of the proposed homes would need to travel to Midsomer Norton, or slightly further afield to Whitchurch on the edge of Bristol. King Lane, on which the appeal site is located, is unlit and does not have a pavement. As such, walking and cycling to Clutton are unlikely to be attractive options, particularly in poor weather or in the hours of darkness.
8. There are bus stops on the A39, but this is some distance from the appeal site, and access to them would have to be achieved via King Lane, and also Flatts Lane which has similar characteristics. The appellant has noted that the WESTlink bus service could be utilised. However, as this needs to be booked in advance, this is perhaps unlikely to be of interest to car owners.
9. Taking all of this into consideration, it seems inevitable that future occupiers of the proposed homes would likely be highly or completely reliant on the use of private cars to access services and facilities. As such, the proposed development would conflict with CS Policies DW1, ST1 and ST7 as well as NP Policy CNP3. Taken together, the relevant aspects of these policies seek to direct new development to sustainable locations which promote the use of public transport options.

Planning Balance

10. It is not in dispute between the main parties that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing. Indeed, at just 2.5 years, the current shortfall is significant, and I have no evidence before me to suggest that this position is likely to improve in the short-term. In such circumstances, Paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework) require that 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 as a whole.
11. In this instance, the benefits of the proposal include the provision of nine new homes that would assist in meeting need in the area and provide support for local facilities. It would also make use of a previously developed site. Given the shortfall in housing land supply, I afford significant weight to these benefits.

12. I have concluded that there would be material harm in relation to the suitability of the site's location. Paragraph 84 of the Framework sets out that development of isolated homes in the countryside should be avoided. None of the exceptions listed would be of relevance to this proposal. A Court of Appeal Judgement¹ noted that the phrase 'isolated development in the countryside' simply means a dwelling that is physically separate or remote from a settlement. In this instance, the appeal site is situated between The Hunters Rest public house and a residential dwelling, with a small industrial estate and further dwellings just beyond. In my view this collection of buildings can be considered to be a settlement, and therefore, while the conflict with the spatial strategy is clear, the appeal site is not isolated in so far as it is defined within the Framework.
13. However, the Framework places great importance on the provision of development that encourages the use of sustainable modes of transport. I must therefore afford weight to this conflict. In this instance, the proposed dwellings would be located fairly close to the village of Clutton and within a reasonable distance of Midsomer Norton and Whitchurch. While future occupiers would be reliant on the private car to access these facilities, the majority of trips are likely to be fairly short. In addition, even if one doubts the traffic data provided by the appellant, it is also likely that the individual number of trips emanating from the nine dwellings would not be significant. In my view, this would result in moderate harm.
14. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would not significantly and demonstrably outweigh the benefits. The development therefore represents sustainable development in accordance with the presumption in favour of sustainable development.

Other Matters

15. The proposal would result in the loss of the existing stable facilities. However, in planning terms, this is not unacceptable subject to consideration of wider issues. While the application is only in outline form, the indicative plans indicate that there is no reason to conclude that the proposal would result in the loss of existing green space to any significant degree. Information about sustainable construction would predominantly be dealt with at reserved matters stage.
16. The Council's ecologist has concluded that the proposal would not result in harm to protected species, subject to the imposition of suitable conditions. Based on the evidence before me, I am in agreement with that position.

Conditions

17. I have identified the relevant plans and timescales in the interests of certainty. Several conditions have been imposed in order to preserve or enhance ecology and biodiversity. Further conditions seek to avoid increased flood risk and the provision of a suitable landscaping strategy. A Construction Management Plan is necessary to ensure that construction takes place in an acceptable manner. Finally, additional conditions have been imposed to secure the necessary visibility splay at the site access and also access to each property by a footway and carriageway.

¹ Braintree District Council v Secretary of State for Communities and Local Government and others [2018]

18. Certain conditions are identified as pre-commencement. These are necessary to avoid harm to ecology during construction, ensure that plans for biodiversity are secured at the appropriate time, to provide drainage ahead of construction, and to control the process of construction itself.

Conclusion

19. The proposed development would result in harm in relation to its location, and it therefore conflicts with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework, that indicate that the decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site location plan – H6818/100 G
 - Access Plan - 23468-RLL-23-XX-DR-C-1011 Rev PO2
 - Refuse vehicle tracking – 23468-RLL-23-XX-DR-C-1015- P02
 - Visibility Splay 803.0016-0001 Rev P01
- 5) No new external or internal lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with (but not limited to) the approved "Lighting Impacts Review" letter dated 25th June 2024 by The Lighting Bee and shall include: 1. proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan; 2. Light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23 "Bats and artificial lighting in the UK", including details of predicted light spill and lux levels within and beyond site boundaries, onto adjacent land and onto boundary vegetation and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights using sections and drawings; 3. details of lighting controls; proposed hours, frequency and duration of use; and details of all measures and features to contain light spill, and to prevent upward light spill and light spill onto bat roosts, roots access points, and connecting flight routes, and habitats used by bats; trees and boundary vegetation and adjacent land; and to limit use of lights when not required; and to avoid harm to bat activity and other wildlife. The lighting shall be installed, maintained and operated thereafter only in accordance with the approved details.
- 6) No site preparation, demolition or development shall take place until full details of a Wildlife Mitigation and Enhancement Scheme, produced by a suitably experienced professional ecologist, have been submitted to and approved in writing by the local planning authority. These details shall be in accordance with (but not limited to) the approved Ecological Impact Assessment Rev 3 dated 15 May 2024 by Acer Ecology, and shall include: (i) Method statement for pre-construction and construction phases to provide full details of all necessary

ecological protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, nesting birds, badger and other wildlife, and proposed reporting of findings to the LPA prior to commencement of works; (ii) Full details of bat mitigation and compensation scheme (iii) Detailed proposals for implementation of the wildlife mitigation measures and recommendations of the approved ecological report, including wildlife-friendly planting and landscaping details; provision of bat and bird boxes; provision of features and habitats to benefit wildlife. Details shall include proposed specifications; materials; 3 dimensions; models; design; fixings (as applicable); and proposed numbers, heights and positions. Specifications for fencing and boundary treatments shall include provision of gaps or wildlife access points at intervals, to allow movement of wildlife (iv) All details shall be fully incorporated into the scheme and accurately shown to scale on all relevant plans and drawings. All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation of the development, and retained and maintained thereafter for the purposes of wildlife conservation.

- 7) No development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following: In all cases: 1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments; 2. A BNG habitat map for on-site proposed habitats; 3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits); 4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development; Where on-site habitat is proposed/retained; 5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives; 6. Annual work schedule for at least a 30 year period; 7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access); 8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives; 9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism; and; 10. Proposed costs and resourcing, and legal responsibilities.

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

- 8) No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife and Bat Mitigation and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.
- 9) No development shall commence, except ground investigations and remediation, until a detailed drainage design based on the approved Flood Risk Assessment / outline drainage strategy (demonstrating that that surface water will be managed within the site using sustainable drainage principles so as to prevent any increase in on-site or off-site flood risk) has been submitted to the Local Planning Authority and given written approval. The design is to include plans, structure details and calculations demonstrating performance of the system at the critical 1:1, 1:30 and 1:100+climate change events. The submission also needs to demonstrate how the proposed drainage system will be maintained to perform to the design standard for the life of the development. The works must then take place in accordance with the approved details.
- 10) No development beyond slab level shall take place until full details of both hard and soft landscape proposals and programme of implementation have been submitted to and approved by the Local Planning Authority. These details shall include, as appropriate: 1. Proposed finished levels or contours 2. Means of enclosure 3. Car parking layouts 4. Other vehicle and pedestrian access and circulation areas 5. Hard surfacing materials 6. Minor artefacts and structures (e.g. outdoor furniture, play equipment, refuse or other storage units, signs, lighting) 7. Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc) 8. Retained historic landscape features and proposals for restoration, where relevant.
Soft landscape details shall be consistent with the Biodiversity Net Gain Assessment/Biodiversity Gain Plan/ Ecological Report/ Bat Mitigation and shall include: 1. Planting plans 2. Written specifications (including cultivation and other operations associated with plant and grass establishment) 3. Schedules of plants, noting species, planting sizes and proposed numbers / densities.
- 11) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of the following: Deliveries (including storage arrangements and timings); Contractor parking; Traffic management; Working hours; Site opening times; Wheel wash facilities; Site compound arrangements; Measures for the control of dust.
Temporary arrangements for householder refuse and recycling collection during construction. The construction of the development shall thereafter be undertaken in accordance with the approved details.

- 12) No occupation of the development shall commence until the works shown on drawing number 23468-RLL-23-XX-DR-C-1011 Rev PO2 have been completed. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.
- 13) Each dwelling shall not be occupied until it is served by a properly bound and compacted footway and carriageway to at least base course level between the dwelling and the existing adopted highway.