



Appeal Decision

Site visit made on 1 July 2025

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2025

Appeal Ref: APP/E3335/W/25/3358677

Land at Pathe Road, Pathe, Othery TA7 0JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Tucker against the decision of Somerset Council.
 - The application Ref is 38/23/00013.
 - The development proposed is Change of use of land for the stationing of 2 No. shepherd huts to provide holiday accommodation.
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Decision

1. The appeal is dismissed.

Applications for costs

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

Main Issues

3. There are 2 main issues. These are:
 - Whether the site is a suitable location for the proposed development, having regard to the spatial strategy for the area and the effect on the character and appearance of the area; and
 - The effect of the proposed access road on the character and appearance of the area, and the wildlife corridor and habitats.

Reasons

Suitable Location

4. The appeal site relates to a parcel of land situated in Pathe, which is a small rural hamlet, consisting of approximately 8 dwellings. At the time of my site visit, it was used for the grazing of horses. The site is situated outside of any identified settlements and is classified as open countryside. The spatial strategy confirms that in the countryside, new development will be appropriately controlled unless it falls under certain exceptions.
5. One of these exceptions is Policy D17 of the Sedgemoor Local Plan 2011-2032 (Local Plan) (adopted 2019), which supports small scale tourist accommodation, including lodges, caravans and pods, within identified settlements where they are appropriate to their size and role. Policy D17 clarifies that in the countryside, new accommodation should, where possible, be provided within or close to a

settlement but may be justified in other locations where the facilities are required in conjunction with a particular countryside attraction and there are no suitable existing buildings or developed sites available to re-use.

6. The nearest settlement is Othery, which is defined in Policy S2's settlement hierarchy as a category tier 4 settlement, which the Local Plan recognises as not having 'a full range of local services' and being 'more dependent on neighbouring settlements for many essential needs'¹. The appeal site is approximately 1.6km away from the centre of Othery (or approximately 640m from its southern edge, as calculated by the appellant). However, whilst the distance might not be prohibitive in itself, the roads leading to Othery are unlit and without pavements. Furthermore, it does not have a full range of services, and the village pub is currently closed.
7. Middlezoy, a tier 3 settlement, is situated 2km away, according to the appellant, although the Council suggests it is 4km away. The Local Plan summarises that tier 3 settlements have an 'adequate but basic level of key local services and facilities'. However, due to the distance of either 2km or 4km, and the unsuitable nature of some of the roads to get to Middlezoy, they would not be welcoming to people on foot or on bike. The nearest settlements with a greater range of services and facilities are Bridgwater and Langport, which are at least 7km away.
8. My attention has been drawn to Aller and Burrowbridge but I note that these don't appear in the settlement hierarchy set out in Policy S2, although I recognise that they may offer 'various pubs and cafes and other local businesses which visitors can use', as set out by the appellant.
9. Consequently, the appeal site is within an area with limited services and poor transport connections. Future occupants of the proposed tourist accommodation would therefore be largely reliant on the private motor car to access services and facilities. This lack of accessibility demonstrates that the site would be an unsuitable location for the proposed holiday accommodation and would be inappropriate to the size and role of Pathe. The distance from any recognised settlement would result in the proposed tourist accommodation not being located within or close to a settlement, as required by Policy D17.
10. In regard to a similar approval at Crossroads Farm², I note that this site was only approximately 500m away from Middlezoy. I have also been provided with an appeal decision at Weighbridge Farm³, which the decision confirms is 'roughly equidistant' between Othery and Middlezoy, approximately half a mile away from them both. However, there would be differences with the proposal at Pathe Road. Notably, the appeal site before me would be in a more isolated location than these earlier schemes, with a greater distance to the tier 3 settlement of Middlezoy, to access the 'basic' facilities on offer, and with no genuinely sustainable travel choices available such as walking, cycling or public transport.
11. Whilst consistency is important, the examples given merely indicate to me that each case must be considered on its own merits, determined in the light of the specific circumstances and context of each case. I have considered this appeal on its own merits and have found it to be in conflict with the spatial strategy for the reasons set out above.

¹ Table 4.1 of the Local Plan

² Application Ref 34/20/00003/EC

³ Appeal decision APP/E3335/W/24/3354157

12. I acknowledge countryside attractions are located nearby, including the Burrow Mump, the Somerset Levels and the opportunities that this would present, RSPB reserves, National Trust properties and various country pubs and cafes. However, the proposal would not be associated with a particular countryside attraction, as required by Policy D17. Future occupants of the holiday let would also be largely reliant on the private car to access these nearby countryside attractions.
13. Paragraph 110 of the National Planning Policy Framework 2024 (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it is not considered that it 'explains that for proposals of this scale the use of the car is acceptable and does not conflict with the objectives of promoting sustainability', as alleged by the appellant. My findings above would mean that the site's location does not provide for sustainable forms of transport to allow any choice to reasonably carry out day-to-day activities for holiday users.
14. In regard to the location of the proposal and the effect on the character and appearance of the area, the land rises steeply from Pathe Road to the south. Apart from a handful of sporadic dwellings along the road, the appeal site forms part of the verdant open countryside. Consequently, the appeal site, in its current undeveloped form, contributes positively to the rural character and appearance of the open countryside location. There is also an element of tranquillity associated with the site due to the lack of built form and location in the open countryside.
15. The shepherd huts in isolation, might not be particularly incongruous to the rural landscape. However, the occupation of the shepherd huts, including the access road, parking and associated external paraphernalia, in a location unrelated to any existing farm buildings, built form or identified settlement, would be inconsistent with the site's immediate and wider landscape character. Consequently, this would cause material harm to the character and appearance of the area.
16. The visibility from the public would be limited to views through the new access on Pathe Road, and additional planting along the western boundary would assist in mitigating any views. I also note that any lighting could be sensitively positioned. Nevertheless, the supposed lack of visibility from public view does not outweigh the harm I have identified above or the conflict with the spatial strategy.
17. The appellant has stated that there 'are many examples of such accommodation in the countryside which cause no identifiable harm'. Nevertheless, the fact that apparently similar development exists is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
18. It is appreciated that 'farm based tourism glamping type accommodation can only take place on farmland', as submitted by the appellant. However, Policy D17 refines the circumstances in the countryside when they would be acceptable, none of which would be applicable to the proposal.
19. It is acknowledged that paragraphs 88 and 89 of the Framework supports a prosperous rural economy but only through the conversion of existing buildings and well-designed new buildings, where they would respect the character of the countryside and where they would be sensitive to its surroundings. In view of the harm identified above, the proposal would be contrary to these objectives.

20. Consequently, for the reasons given above, the appeal site would not be in a suitable location for the proposed development, having regard to the spatial strategy for the area and the character and appearance of the area. It would conflict with Policies S2, S4, CO1, D2, D13, D14 and D17 of the Local Plan. These policies, in combination, set out the spatial strategy for the district, strictly controlling development in the countryside and protecting the quality of the natural environment. They seek to ensure that development responds positively to and reflects the surrounding area and minimises the need to travel, reducing reliance on private transport and encouraging and supporting sustainable forms of development. New tourist accommodation in the countryside is only supported in certain circumstances, which would not apply to the proposal.
21. It would also conflict with the Framework which seek development to respect the character of the countryside and be sympathetic to the local area, as well as paragraphs 88 and 89 of the Framework for the reasons set out above.

Access Road

22. The proposal would involve a new vehicular access from Pathe Road to the west, requiring the removal of 6 mature ash trees and hedging. The Preliminary Ecological Appraisal Report (the PEA)⁴ describes the western boundary as a thin strip of 90m long deciduous woodland dominated by Ash, running along a steep bank with a ditch adjacent to the road. This corresponds with what I observed on site. The PEA confirms that the new access would result in the loss of approximately 180sqm of tree coverage.
23. As you travel along Pathe Road, due to their roadside positioning, the established trees and hedges are highly visible and form part of the verdant countryside setting of Pathe. The mature trees either side of the road form a tunnel of trees, adding to the character of the area. The mature hedge also consistently runs along the road. Accordingly, they contribute positively to the local landscape character and appearance of the area. Furthermore, the existing vegetation forms part of the wider enclosure of the site, which is currently hidden from views from the west.
24. The proposed access, as a result of the associated loss of trees and hedging, would significantly harm the character and appearance of Pathe Road. It would open up views into the site incongruously and the 5m wide and 77m long access would appear as a stark and harmful intrusion in the open countryside.
25. Compensatory planting is proposed along the roadside and along the southern side of the access track. However, this would take time to become established and would not outweigh the visual impact of the new access opening itself. The removal of the trees and the more planned formal landscaping would further urbanise the site, incongruous to its rural character.
26. The loss of the 6 mature ash trees would also have an ecological impact, which have been categorised as one mature tree, three semi-mature and two young.
27. The PEA confirms that the trees provide moderate foraging habitat and commuting routes for bats. A subsequent Ecological Impact Assessment Report (EIAR)⁵ demonstrates that the Ash tree which was initially identified as having a potential bat roosting feature does not have a bat roost present. However, the EIAR

⁴ Dated February 2023, for Clive Miller Planning Ltd, prepared by Abbas Ecology

⁵ Dated October 2023 for Clive Miller Planning Ltd Prepared by Abbas Ecology

recognises that 'as surveys on tree features are less reliable precautionary mitigation is recommended when felling the tree'. Therefore, it recommends that a general purpose bat box is installed on one of the retained trees to replace the lost potential roosting feature. The EIAR also confirms that whilst the loss of trees would result in a loss of bat commuting habitat, as the gap created would be small, it would not result in a continuous gap in the canopies.

28. The PEA and EIAR confirm that the removal of the trees also poses a risk to any dormice or Great Crested Newts (GCN's). It recognises that the woodland strip provided some limited habitat for dormice but did not contain species that would provide a good source of food. However, overall, the habitat present was of low quality for dormice, but they could be present due to the connectivity to better quality habitats. In regard to GCN's, the EIAR states that it was possible that GCN's could be present, but is a low risk given the small amount of habitat present and limited connectivity to further suitable habitats. Mitigation is therefore recommended for the removal of the trees and stumps for the creation of the new access, which would mitigate the low risk of dormice and hibernating GCN's.
29. The EIAR states that the woodland strip could also be used by Western European Hedgehogs for foraging and commuting, however no potential hibernation features were identified. The loss of the trees would result in a very small loss of habitat for hedgehogs. However the impact is expected to be negligible, and the gap would not create a barrier for passage between the retained habitats.
30. The Council have accepted that in the long term the proposal would deliver significant gains in biodiversity but are still concerned that the impact on ecology and the wildlife corridor could be avoided. Policy D20 states that development should avoid significant harm to ecological features and Policy D22 requires development to avoid or minimise the loss or damage to trees. On the basis of the PEA and EIAR, I am satisfied that the proposal, with the recommended mitigation which could be secured by suitably worded conditions, would avoid significant harm to the wildlife corridor and habitats, whilst minimising the loss to trees. In the absence of substantive evidence from the Council as to how specific species or habitats would be affected by the proposal, I consider that the site would still function as a wildlife corridor.
31. The appellant submits that the new access is required regardless of whether part of the field is used for the proposal or whether it remains as agriculture, in part due to the need for an upgraded and safe access to the field being required. Whilst this might be the case due to the gradient and visibility of the existing access, the proposed access before me now is in relation to the proposed development as described in the banner heading above. I am not aware of any other planning permission or certificate of lawfulness in regard to the proposed access. Furthermore, an agricultural access may be less extensive than the access proposed, with the Council alleging that the scale 'does not appear commensurate with an agricultural use'. Nevertheless, any alleged fallback position would not outweigh the harm in these circumstances.
32. In conclusion, I have found that the proposed access road would not significantly harm the wildlife corridor nor any habitats. It would be in accordance with Policies D20 and D22 for the reasons set out above. However, the proposed access would harm the character and appearance of the area and would conflict with Policies D2 and D19 of the Local Plan. Together these policies seek to retain and integrate

existing landscaping features, ensuring that proposals enhance the landscape quality or avoid significant adverse impact on local landscape character.

Other Matters

33. The proposal would deliver economic and tourism benefits, including increasing the choice of holiday accommodation and the expenditure that the future occupants would generate in the local area. The appellant would provide written information to visitors about local shops, pubs, cafes, footpaths and other attractions. I also acknowledge the submitted business plan which demonstrates that the proposal would be a viable business. Collectively they would attract moderate weight. However, they would not outweigh the harm identified.
34. The proposal has been submitted as a farm diversification scheme and would help to provide some additional farm income. However, from the address given for the main holding at Manor Farm on the application form, which the appellant confirms is north of the village of Othery, the appeal site would be remote from the farm, with the management of the proposal being carried out off-site by the appellant's daughter who lives in Othery. Whilst the appellant states this part of the farm holding has been chosen for its 'quiet and peaceful nature', I am not convinced, based on the evidence before me that the proposal would represent a farm diversification scheme, due to the separation from the main farming business.
35. The earlier permission at Weighbridge Farm⁶ addressed the matter of a farm based tourist development in countryside locations, as submitted by the appellant. However, this development appears to be located on a small holding where there were existing farm buildings, and the holiday let in this case was close to the existing farm buildings. This is a notable difference to the proposal before me now, which would be situated away from the main holding and existing farm buildings.
36. I recognise the Council's concerns in regard to the visual impact of any signage. However, it is considered that had I been minded to allow the appeal, any signage could be controlled by a suitably worded condition, as suggested by the appellant.
37. The Council have stated that there are several Grade II listed heritage assets to the south/southwest of the site including Pathe Cottage, a separately listed attached/section of walling and Pathe House. However, an interested party alleges that Pathe Cottage is not actually listed. Nevertheless, the Council did not raise any concerns in regard to any designated heritage assets. My observations on site confirmed that I am also satisfied that the setting, and thus the significance, of any designated heritage assets would be preserved.

Conclusion

38. The development conflicts with the development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR

⁶ Appeal decision APP/E3335/W/24/3354157