



Appeal Decision

Site visit made on 16 July 2025

By G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2025

Appeal Ref: APP/F0114/W/25/3360764

Land at May Lane, Newbridge, Bath BA1 3QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against the Council's failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Robin Heap on behalf of Zest Eco Ltd against Bath and North East Somerset Council.
 - The application Ref is 24/01613/FUL.
 - The development is the installation of 4 No EV charging bays together with ancillary electrical equipment.
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Decision

1. The appeal is dismissed.

Preliminary and procedural issues

2. The application form is dated 30 April 2024, and the application was acknowledged by the Council on 8 May 2024 with confirmation that it was registered as valid on 1 May 2024. The development proposed in the original submission was for 5 No EV (Electric Vehicle) charging bays, but this was subsequently amended and reduced to 4 No bays. Several extensions of time requests were made by the Council and agreed to by the appellant.
3. The appellant indicated in the application form that the proposed development was exempt from the recently introduced Biodiversity Net Gain (BNG) provisions, on the basis that the development fell below the threshold. Accordingly, no information relating to BNG accompanied the application. Subsequently, the appellant acknowledged that the development was not exempt from the BNG provisions, and some information was submitted.
4. The Council's appeal statement is supplemented by additional ecological comments. The statement provides information in respect of the responses to consultation carried out on the application. It also contains an assessment of various aspects and concludes that Council officers would have recommended refusal of the application for two reasons. The appellant did not take the opportunity provided to comment on the Council's statement or on local residents' comments and concerns.
5. The Council's statement says that 'four' letters of objection/comment were received. Based on the information made available to me, the level of public comment far exceeded that.

6. The application was undetermined and there is no formal Council resolution as to the stance to be adopted at appeal. I shall therefore deal with the appeal under the power made available under section 79 of the Act¹ as if the original application had been made to me in the first instance.

Background

7. May Lane is an L-shaped lane linking Evelyn Road and Newbridge Hill (A431). The length of May Lane running east to west from Evelyn Road is a private road in the ownership of the appellant. The EV charging facility would be formed at the eastern end of the lane where it joins Evelyn Road, between Nos 14 & 15 Evelyn Road, but directly alongside the flank wall and garden of the latter. Part of the application site is occupied by an area of greenery comprised of trees and other vegetation. The intention is to remove the greenery, to surface this part of the lane with asphalt and to lay out the facility in accordance with the deposited plans.
8. The lane acts as an access to and from seven dwellings and many lock-up garages. A public footpath (PROW Ref BC25/9) runs along that part of the lane running south to north from Newbridge Hill. The lane is poorly surfaced in parts.
9. The government strongly supports and encourages the move from petrol/diesel vehicles to those powered by electricity, and there is general policy support at national and local level for the type of facility proposed, in principle. The Council does not suggest otherwise.

Main issues

10. The main issues are: (a) whether this is an appropriate location for the proposed facility having regard to accessibility, residential amenity & public safety, and (b) whether the interests of biodiversity are safeguarded.

Locational appropriateness

11. The information provided with the application comprises the deposited plans together with a planning statement. The application was subsequently amended following comments made by the Highway Authority. Whilst the original statement and subsequent grounds of appeal contain some useful information, other information necessary to make an informed decision appears to be absent.
12. The appellant says that the parking bays' dimensions have been designed in accordance with recommended guidelines but omits to identify the guidelines. I know of no recognised planning-related guidelines which recommend a parking bay width of 2.0m, as seems to be proposed. Other relevant information which appears to be absent is: what provision has been made in the plans for the space requirements of disabled drivers? Would car doors be physically capable of being opened immediately next to the crash barrier to be installed²? Does the layout design take account of the fact that charging ports appear on both sides of vehicles? Would commercial vans be allowed to use the facility³? Do the vehicles that collect May Lane residents' refuse need to use the lane, and if so, what type of vehicles are they⁴? What is the estimated level of daily use of the facility, and the

¹ The Town & Country Planning Act 1990

² The drawings suggest that cars would be parked very close to the barrier to be installed.

³ These, generally, are wider than cars

⁴ Some are wider than a fire tender

level of usage at night? What is the expected duration of stay and would drivers wait with their cars whilst charging? In the absence of streetlights how would the facility operate in the dark⁵? Would external lighting be needed? Would the facility's equipment generate noise and, if so, at what levels?

13. The appellant has produced a swept path analysis with a view to demonstrating that the facility would not impede the accessibility of others, including provision for emergency vehicles. The appellant's plans note that they are not based on a site survey but were created through desktop exercises. The plans appear to be blow-ups of OS plans. Where dimensions are crucial to the proper operation of the facility and to ensure that the servicing ability of the lane is not compromised, I would need more assurances than provided on the plans' accuracy.
14. Regarding the PROW, it seems unlikely that most motorists using the facility would need to use the north to south section of May Lane since they could perform a three-point turn, as I did, next to the charging facility. They may be some who would opt not to do so, in which case there would be a dual use of part of the lane with users of the footpath (which is not marked out). However, this part of the lane is already used by vehicles, as is apparent from the number of lock-up garages and dwellings present on both frontages. Accordingly, pedestrians and vehicles already intermingle on the lane, and there is no persuasive evidence before me that this has proved problematical in the past. In the circumstances, I do not consider that the users of the PROW would be put at an unacceptable level of additional risk.
15. In the absence of what I regard as important relevant information, I am unable to properly assess the future functionality of the service lane and the impact of the proposal on the living conditions of the nearest residents, in particular those sited cheek-by-jowl with the facility at Nos 14 & 15 Eversley Lane, with regard to noise and disturbance from equipment and customers, particularly late at night, and the potential light nuisance.
16. I therefore intend to adopt a precautionary approach since I am far from satisfied that the service lane, given its limited width, can accommodate an appropriately designed facility of this type whilst ensuring that the service requirements of the lane are not impeded. Nor I am satisfied, on the basis of the available information, that the living conditions of the closest residents would not be harmed. They could potentially be harmed by the sounds caused by the regular opening and closing of doors, drivers' conversations/activities at close quarters, particularly at unsocial hours, and by nuisance caused by external lighting
17. Accordingly, based on the available information, I conclude that this is not an appropriate location for the proposed facility having regard to accessibility and residential living conditions. A conflict therefore arises with those provisions of policies D4 & D6 of the Bath and North East Somerset Placemaking Plan (PP) requiring development to be well connected with regard to street design, for shared surfaces to be legible and for occupants of residential properties not to be significantly harmed by noise or other disturbance.

Biodiversity

18. Article 7 of *The Town and Country Planning (Development Management Procedure)(England) Order 2015* (as amended) sets out the information required to

⁵ Assuming a 24/7 use as appears to be suggested

accompany an application to address issues relating to BNG. As already explained, the appellant, initially claimed exemption from the BNG requirements, and this is presumably why the application was registered as valid by the Council.

19. It subsequently became clear, as is now recognised by the appellant, that the BNG provisions apply. This being the case, the appellant submitted what is described as a 'Preliminary Biodiversity Net Gain Baseline Report'. However, this report is caveated by its authors as follows on its first page:

This report is a preliminary habitat survey based on desktop data derived from high-resolution satellite imagery and artificial intelligence (AI) analysis. The information contained herein provides indicative conditions for scenario planning purposes only and is not suitable for submission in support of a Biodiversity Net Gain (BNG) application or any other planning purposes.

20. Based on this caveat alone the document is virtually worthless in the context of satisfying the minimum information requirements of Article 7 or for the purposes of this appeal. Be that as it may, its content comes nowhere near addressing the minimum information requirements.
21. I note the comments made in the appellant's appeal statement, which appears to me to be an attempt to transfer to the Council the responsibility for the failure to properly address this matter. It is quite clearly the appellant's responsibility to meet the minimum information requirements of Article 7. Since this has not been done, I have no alternative but to dismiss the appeal.

Other matters

22. I have considered all other matters raised in the representations including the many objections made by local residents, together with the single expression of support. I have already dealt with the main planning-related issues raised. The issue of residents' legal rights in respect of the Lane is not a matter for my consideration. No other matter raised is of such strength or significance as to outweigh those considerations that led to my decision.

G Powys Jones

INSPECTOR