
Appeal Decision

Site visit made on 26 August 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Appeal Ref: APP/E3335/W/25/3367786

**Land to the south of Westbrook Farm, Harp Road, Brent Knoll, Highbridge
TA9 4HQ**

- 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 Winterburn against the decision of Somerset Council.
 - The application Ref is 07/25/00003.
 - The development proposed is a new build dwelling.
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Decision

1. The appeal is dismissed.

Application for Costs

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

Preliminary Matters

3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the demolition of an existing barn and the erection of a self-build dwelling. As the Council dealt with the proposal in this way, for the avoidance of doubt the appeal will be considered on this basis.

Main Issues

4. The main issues in this case are:-
 - the effect of the scheme upon the character and appearance of the area;
 - whether the scheme would be in a suitable location for residential development, having regard to local and national policy; and
 - whether the scheme would result in an unacceptable flood risk.

Reasons

Character and Appearance

5. The appeal site comprises part of a field of mown grass that is to one side of Harp Road. Close to the western corner of the field and near to the existing access there is a pitched roof barn, and this barn has an extant consent for change of use and conversion into a dwelling. Gravelled hardstanding extends from the access, around the barn and towards two static homes, beyond which is a metal container.

These homes and the container form a loose linear group to one side of the field close to the hedgerow. Surrounding the appellant's land are fields and paddocks, with a replacement dwelling currently under construction on a plot of land formed by the junction of Vole Road with Harp Road.

6. The proposed house would be an imposing building positioned within generous gardens. The house and its gardens would draw the eye, in part because it would be set back within the site behind a turning and parking circle and away from any of the nearby hedges and boundaries, but also because of its large size and striking style. The house would have a conspicuous presence within the area, particularly as it would be a substantial dwelling with no legible relationship with the surrounding land.
7. The feature entrance, the long balconies, and numerous full height windows, along with the materials palette would all serve to exaggerate the imposing appearance of the house. Rather than have the utilitarian, agricultural appearance of the barn conversion, the design, form, and positioning of the proposed dwelling would render it overtly and legibly residential. Whilst the balconies and windows have been included for solar gain and heat control, the position, height, and size of the dwelling would be such that despite these benefits the house would be a conspicuously intrusive addition to the area, prominently visible from the public highway. Landscaping has been suggested and this may provide some screening of the building in due course. However, the height, size and form of the house would be readily apparent within the surrounding area, including at night when rooms were lit, and landscaping cannot be relied upon to screen a development for its lifetime.
8. The appellant has referred to the similarity of the scheme with the replacement dwelling at Westways, a home that is currently under construction. This two storey dwelling replaces a single storey one and partly overlaps the position of the previous home as well as being close to the public highways rather than being set back from them. It is constructed from brick and tile, and these materials and its form and its more modest size than that proposed, including that it would have small and large windows, give the dwelling a more conventional, modest appearance than the appeal scheme.
9. As regards the comparisons cited at Westbrook Farm, one is for a replacement dwelling, and the other is for a barn conversion scheme. Although the latter is set back from Harp Road, as it was a barn conversion this would have determined the position of the dwelling. The replacement dwelling is a large, articulated building, that is set back from the highway behind gated gardens and parking. It has an imposing presence in the area, but it appears as part of the caravan uses that surround it and does not have the isolated positioning within a field that the proposed dwelling would have. Given these differences, none of the examples cited form a binding precedent for allowing the appeal.
10. The red site line includes an existing barn with an extant prior approval under Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for the change of use and conversion into a dwelling (application ref: 07/23/00027). *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314 found there needs to be an assessment of whether there could be a real prospect of a fallback being implemented. The Class Q permission would provide a fallback situation for the

appellant, and there would be a high probability that this scheme could be implemented. As such the fallback is attributed with significant weight.

11. However, neither scheme would preclude the other from being undertaken, albeit the appellant has pointed out the submitted drawings make it clear that the barn would be demolished. Notwithstanding this and that the barn's demolition is referred to in the Council's description of development, no legal agreement has been provided to secure the demolition. Although the appellant suggests this could be a conditional requirement and that such a device has been used elsewhere, no suggested wording has been provided to allow consideration of whether such a condition would accord with the requirements of the National Planning Policy Framework (the Framework). Furthermore, appeal decision ref: APP/J1860/W/21/3282384 found that a condition could not be imposed to prevent the implementation of a previously granted but unimplemented permission as it would be ultra vires. As this would be the case in this instance, the absence of any means to prevent the implementation of the barn conversion could result in two dwellings present on the site if the appeal were to be allowed.
12. Whilst the appellant considers the appeal scheme would be a betterment over the Class Q permission, the dwelling would be much larger in size and height than that permitted and would be positioned within substantial gardens. The barn conversion would result in a discreet, modestly sized dwelling, positioned in one corner of the field, with a legible agricultural appearance. By contrast that proposed would be prominently visible, having a deliberately imposing impact, being positioned within a large garden that would have little relationship with the existing field boundaries. There would be arbitrarily positioned boundaries around the proposed gardens and in an area of mostly regularly shaped, hedge-bounded fields the garden boundaries would appear conspicuous, particularly as residential paraphernalia would be spread over a large area. This urbanisation of the site and the erosion of the rural character and appearance of the area would be conspicuously harmful, and also significantly more harmful than the fallback position. Furthermore, in the absence of any mechanism to ensure the demolition of the barn, granting this scheme would be tantamount to allowing a second dwelling on the site, thereby exaggerating the harm.
13. Rather than the dwelling resulting in comprehensive enhancements over the Class Q permission, the proposed dwelling would significantly harm the character and appearance of its rural location. Many of the cited benefits resulting from the dwelling, such as build quality, security, and renewable energy provision could be achieved with the Class Q permission. Landscaping and biodiversity enhancements could be achieved irrespective of any planning permission, and flood escape measures by themselves would not warrant such a large, tall building. Easier access and parking arrangements, flexible living space and less traffic disturbance would be personal benefits for the appellant and his family that would not outweigh the significant harm resulting from the scheme.
14. Given these findings, the dwelling would unacceptably harm the character and appearance of the area, and the suggested conditions would not overcome these fundamental harms. There would be conflict with Policy D2 of the Sedgemoor District Council Local Plan (2019) (LP) that seeks, amongst other things, development that responds to local context and reflects characteristics of the site and the identity of the surrounding area.

15. In addition to the above referenced LP Policy, the Council's reason for refusal also referred to LP Policy D20. As this policy is concerned with biodiversity and geodiversity it has little bearing on matters of character and appearance.

Location

16. There is a loose scatter of dwellings, farmsteads and also caravan sites within the area, and they are separated from each other by fields and paddocks. Given this context, the house would be positioned in a countryside location and would not form part of any defined settlement, nor would it comprise infill within a nucleus of existing dwellings. Future occupiers of the dwelling would have to travel to access services and facilities. These journeys would likely be by private vehicles, particularly given the distances to the nearest settlements and that there are no footways nor lighting to any of the nearby roads. The scheme would fail to be the sustainable development sought by LP Policies CO1 and CO2, nor accord with objectives of the Framework that seek to avoid the development of isolated housing in the countryside.
17. These LP Policies seek to manage patterns of growth outside of identified settlements, strictly controlling development unless there are specific countryside needs. In this case the dwelling would not meet an agricultural or food producer's needs, would not enhance or maintain the vitality of the rural community, nor support a prosperous rural economy, as sought by the above referenced policies. As such the scheme would fail to accord with these objectives.
18. Although the dwelling would be a self-build home, little detail has been provided as to how the home would meet the requirements of LP Policy D9, including why the dwelling must be positioned in this particular location. Nor given the countryside position of the dwelling, would it accord with this Policy's requirement of being of an appropriate scale and nature with regard to the character and identity of the existing community.
19. In the absence of a mechanism to prevent the implementation of the barn conversion, if the appeal were to be allowed, two dwellings would be present in a countryside position. The presence of an additional dwelling in the countryside would fail to meet the national and local policy objectives for sustainable development, as well as erode the rural character and appearance of the area.
20. For these reasons the dwelling would not be in a location suitable for residential development and would be in conflict with the requirements of LP Policies CO1, CO2 and D9.

Flooding

21. The Framework requires that when determining any planning application, decision makers should ensure that flood risk is not increased elsewhere, and that applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce runoff volume. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, whether existing or future risk. If development is necessary in such areas, it should be safe for its lifetime without increasing flood risk elsewhere. The Sequential Test (ST) assesses the need for a development in a particular location, and if it is not possible to locate development elsewhere, then the Exceptions Test (ET) needs to be applied.

22. There is no disagreement between the main parties that the site lies within Flood Zone 3 where there is a high probability of flooding. For the appeal, the appellant has provided a Flood Risk Assessment (2025) (FRA) which identifies that the probability of flooding would be low due to the presence of existing flood defences, albeit there would be a gradual increase in risk over time due to climate change.
23. Unlike the barn conversion, this scheme proposes a large new building, and irrespective of the extant permission and the presence of nearby dwellings, the development must address and meet the requirements of the Framework and LP Policy D1. No details of alternative locations for the dwelling have been provided as should occur with an ST, with reliance being placed upon the barn conversion establishing the principle for a dwelling at the site. However, this permission is for an existing building, and is very different to the proposed dwelling which has a larger footprint than the barn, and a generous garden and turning circle and parking area which may or may not be impermeable. In addition, the demolition of the barn has not been secured, and if the barn was not demolished there would be a significant increase in built form on the site. It cannot be assumed in such circumstances that the scheme would not increase flood risk elsewhere, and particularly so in this instance as the FRA refers to the gradual increase in risk due to climate change.
24. The ET refers to the wider sustainability benefit of the provision of an additional dwelling in the Council's area, proposing a range of measures to ensure the safety of future occupiers for the lifetime of the development. The absence of a five year housing land supply is not a justification for development in an area that floods. Although the dwelling would be two storey to provide a flood escape, details of an evacuation plan have not been provided. Furthermore, the FRA recommends the management of surface water runoff, including how to ensure it would not affect any adjoining properties or increase flood risk elsewhere. What has not been resolved and therefore remains ambiguous, is whether the soils would be suitable for infiltration for the proposed soakaways, and if there are receptors to accommodate the surface water discharge, whether there is consent to connect to them. Consequently, the scheme fails to demonstrate that it would not increase flood risk elsewhere.
25. Ultimately the decision maker needs to be satisfied that a development would be safe throughout its lifetime and would not lead to increased flood risk elsewhere, and this includes future risk. As the dwelling would be a more vulnerable use in an area with a high risk of flooding, it is imperative that the strict tests to protect people and property are observed, and when these tests are not met, development should not be allowed. In this case the ST has not been met. Ambiguities remain as regards drainage, it has failed to demonstrate that the future occupiers would not be at risk over its lifetime, nor that flood risk elsewhere would not be increased. Conditions would not address the ambiguities and uncertainties that exist. Consequently, there would conflict with requirements of the Framework and with those of LP Policy D1, which seeks, amongst other things, that development should be safe over its lifetime and not increase flood risk elsewhere.

Other Matters

26. The appellant has raised concerns regarding the Council's handling of the application, including a lack of communication, an absence of a pro-active approach, and inconsistency of decision making. Such concerns relate to

procedural matters and fall to be pursued by other means separate from the planning merits of the appeal.

Planning Balance

27. The appellant has pointed out that the Council do not have a five year housing land supply, with a provision of 4.77 years. LP Policies CO1, CO2, D2, and D9 are broadly consistent with objectives of the Framework which also seeks a sustainable pattern of development in rural areas, the avoidance of isolated homes in the countryside, and housing that reflects local needs and is sympathetic to local character. LP Policy D1 also reflects the requirements of the Framework in ensuring that inappropriate development in areas at risk of flooding should be avoided by directing it away from high risk areas, whether existing or future risk. The conflict of the scheme with these LP Policies should be afforded significant weight.
28. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The Framework makes it clear that where protected areas and assets are harmed by a scheme, and this includes areas at risk of flooding, then the harm to them provides a strong reason for refusing the development. As the house would be in an area with a high risk of flooding and has failed to demonstrate that it would be safe for its lifetime and would not increase flood risk elsewhere, it follows that there are strong reasons for dismissing the appeal.

Conclusion

29. The house would harm the character and appearance of the area and would not be in a suitable location for residential development having regard to national and local policy. Future occupiers would not be safe from flooding over the lifetime of the development, nor has it been demonstrated that the development would not increase flood risk elsewhere. There would be conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR