



Appeal Decision

Site visit made on 13 August 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025.

Appeal Ref: APP/D0121/W/25/3365815

Land to the south of 7 Backwell Hill Road, Backwell BS48 3PL

- 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 Chapel Hill Homes Ltd against the decision of North Somerset Council.
 - The application Ref is 25/P/0038/PIP.
 - The development proposed is Permission in Principle for the erection of 3no 1.5 storey dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Permission in Principle has 2 stages: the first (permission in principle, herein PIP) establishes whether a site is suitable in-principle. The second Technical Details Consent stage (TDC) is when detailed proposals are assessed. This appeal relates to the first stage, so I have considered plans and details indicating the layout and design of the scheme, as indicative only. The scope of considerations for PIP is limited to location, land use and amount of development. All other matters are considered as part of a subsequent TDC application if a PIP is granted. I have determined this appeal accordingly.
3. Following the late availability of substantive interested party evidence in respect of biodiversity, I have allowed the Council and the appellant to comment upon the matters raised and taken the responses into account in determining the appeal.

Main Issues

4. The main issues are whether or not the location, land use and amount of development would be acceptable with particular regard to:
 - the character and appearance of the area including the character, appearance and significance of the Backwell Farleigh Conservation Area (the BFCA);
 - policies for the location of new development;
 - designated habitats sites;
 - whether or not it would be inappropriate development in the Green Belt;
 - the effect upon the openness of the Green Belt; and,
 - if it would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations. If so, would this amount to the very special circumstances required to justify the development.

Reasons

Character and appearance including the BFCA

5. The appeal site and some of its surrounds are within the BFCA within which there is a statutory duty under section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (LBCAA) to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 212 of the National Planning Policy Framework (2024) (the Framework) requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to significance of a designated asset requires clear and convincing justification (paragraph 213).
6. The area is characterised by streets lined by buildings of varying ages, vernaculars and styles, within a countryside setting of fields and other land parcels often divided by hedgerows, with some occasional wider groupings of buildings. The character, appearance and significance of the BFCA derives from the historic built development with distinctive historic buildings, historic and well-trafficked thoroughfares, some more modern buildings around and between them, and the countryside which includes some typically open fields and land parcels forming a part of the settlement rural historic landscape setting. The rural setting and the distinction between the built development and its historic rural landscape setting is a strong positive characteristic and part of the significance of this part of the BFCA.
7. The appeal site is one of the open land parcels within the settlement setting, slightly above some of the historic rural settlement buildings due broadly north and west of it. Notwithstanding that it might be regarded as garden land, its open and verdant character and appearance, its size, proximity to the settlement including historic built form, and its contribution to the landscape setting, makes a markedly positive contribution to the character and appearance of the area and the BFCA, and the way in which the BFCA is viewed and experienced.
8. Matters such as design, configuration, layout and scale are for consideration at the TDC stage and could be significantly reduced. However, it is inherent this proposal would result in a harmful urbanising incursion of new buildings and other development, from new dwellings, driveways, some subdivision, intensification of use and domestication of the land. A new separate access may be necessary, which would add to the harm. Though the site is viewed in the context of other buildings, gardens and accesses, the amount of development and land use in this location would be harmful to the character and appearance of the area, and the character, appearance and significance of the BFCA.
9. The harm would be visible from a number of buildings to the north. Despite the level differences, effect of the generally deciduous hedgerows on perception and visibility, and possibility of securing supplementary planting through a high-quality landscaping scheme, the harm would also be visible from limited sections of Blackwell Hill Road around the existing dwelling access and around any new access point. There would also be some filtered visibility from a section of a public right of way to the east for several years after construction. I am not satisfied high-quality submissions at the TDC stage could adequately mitigate the harm.

10. I understand the Council has not highlighted the effect upon the BFCA as a concern in assessing a site to the south, in a call for sites assessment. It is unclear if it has been taken further in the plan process, although it is likely that assessment does not represent the same level of scrutiny as considered through the planning application process. That site is also in a different position in relation to the BFCA, the landscape setting and surrounding buildings, so it attracts limited weight.
11. The harm overall would be a moderate level of less than substantial harm. Framework paragraph 215 states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. However, great weight should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection.
12. The proposal would result in moderate temporary economic benefits during design and construction and some on-going spend and support to local services, facilities and infrastructure once complete. The Framework seeks to significantly boost the supply of new homes and recognises the merits of small to medium-sized sites. The appeal scheme could help meet village needs, be designed to be suitable for older persons, and those with accessibility needs. The evidence sets out the Council can demonstrate a housing land supply (HLS) of the order of between 2.79 years and 3.88 years, and policies of the development plan may be considered out of date. In this context the scheme could be considered to result in a benefit to supply attracting moderate weight.
13. It would appear there would be the possibility of securing a marked Biodiversity Net Gain which would attract moderate weight. There could also be the potential for securing some renewable energy generation and possibly a benefit in terms of drainage matters, which would attract limited weight in favour of the proposal.
14. Were I to agree the proposal would, or subject to the imposition of suitably worded planning conditions, could comply with policies such as those in respect of accessibility of services and facilities, highway safety, vehicle and cycle parking, design policies and standards, archaeological matters, refuse storage and collection, energy and resource efficient design and construction, and the living conditions of future and neighbouring occupiers, these would be neutral matters.
15. Overall, the policy compliance and benefits of the proposal attract moderate weight in favour of the appeal proposal. When giving considerable importance and weight to the special regard I must have to the desirability of preserving or enhancing the character or appearance of the BFCA, the harm that would arise from the appeal scheme would not be outweighed by its cumulative public benefits, so it does not provide a clear and convincing justification for harm to a designated heritage asset, and this provides a strong reason for refusing the appeal.
16. The location, land use, and amount of development would be harmful to the character and appearance of the area, and it would not be acceptable having regard to the character, appearance and significance of the BFCA. It would conflict with paragraphs 213 and 215 of the Framework, the relevant provisions of which are set out above. It would conflict with the aims of section 72 of the LBCAA, the relevant part of which I have set out above. It would also conflict with Policies CS5 and CS12 of the North Somerset Council (NSC) Core Strategy (2017) (the CS) and Policies DM3, DM32 and DM37 of the NSC Sites and Policies Plan Part 1 (2016)

(the SPP1). Amongst other things these seek that proposals avoid adverse effects, conserve, maintain or enhance local character, the historic environment and the landscape, and demonstrate sensitivity to existing local character.

Location of new development

17. The appeal site lies outside the designated settlement boundary for Backwell defined by the policy map referenced in Policy SA2 of the NSC Sites and Policies Plan Part 2 (2018) (the SPP2). Policy CS14 of the CS deals with the distribution of housing and sets out the locational strategy. It states there will be development opportunities for small-scale development of an appropriate scale within or abutting settlement boundaries of service villages, which includes Backwell. It further states development outside settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development which accords with the criteria in relevant listed settlement policies.
18. Policy CS32 of the CS is one such policy the parties refer to. It states new development within or adjoining Backwell which enhances overall sustainability will be supported where it meets a number of criteria. In-light of my findings above, the appeal scheme cannot be considered to meet the first requirement of respecting or enhancing local character and reinforcing local distinctiveness. Neither can it be regarded as being appropriate to its context, in the fourth bullet point. Therefore, the proposal conflicts with Policy CS32 of the CS read as a whole.
19. The CS32 supporting text refers to appropriate development of up to about 25 dwellings adjoining settlement boundaries provided it respects village scale and character, the site's location, and is not in the Green Belt. In-light of my findings above I cannot agree the scheme respects the character of the site's location. Given there were other exceptions in past iterations of national Green Belt policies, and this is supporting text only, the evidence does not lead me to the view that the advent of Grey Belt results in the CS as a whole, or Policy CS32 being out of date, due to changes in national Green Belt policy.
20. For the reasons set out above, the location, land use and amount of development conflicts with policies for the location of new development as set out in Policies CS14 and CS32 of the CS, and Policy SA2 of the SPP2, the relevant provisions of which I have referenced above.

Habitats sites

21. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a project may result in a likely significant effect (LSE) on a European site (such as the North Somerset and Mendip Bats Special Area of Conservation (the SAC)), a competent authority must assess its implications upon the integrity of that site, in view of its conservation objectives. Any LSEs need to be considered alone and in combination, adopting the precautionary principle.
22. I understand the appeal site is within consultation band B for Greater Horseshoe Bats (GHBs) and density bands B and C for Lesser Horseshoe Bats (LHBs) in the North Somerset and Mendip Bats SAC Guidance on Development Supplementary Planning Document (2018) (the SPD). The SAC is designated as it provides a range of listed habitats for GHBs and LHBs, of which the habitats and the species

are its qualifying features¹. The SAC conservation objectives are to ensure that its integrity is maintained or restored as appropriate and that the SAC contributes to achieving the favourable conservation status of its qualifying features, which includes the populations and distributions of GHBs and LHBs.

23. While consultation zones are not within the SAC, the landscape surrounding it is important for providing habitat to maintain the favourable conservation status of GHBs and LHBs because bats need to be able to use, and move through, the landscape between roosts and foraging areas. The SPD states that LSEs could include from loss of foraging habitat, fragmentation of commuting habitat, and increased luminescence to these², which are needed to help maintain LHB and GHB favourable conservation status³. In consultation Bands A and B bat surveys, habitats/land use surveys and light surveys are required to inform impacts of development⁴. The proposal would result in loss of grassland, potential removal and reduction of hedging, and for increased luminescence across possible foraging and commuting habitat, so has the potential to result in LSEs.
24. An interested party has provided results of a bat survey undertaken for a local initiative, recording 16 bat species, and 10,279 detections including a proportion from GHB and LHB, within a defined 1km square, encompassing the appeal site, although the precise location is unclear. Given this, that it only comprises an automated survey, and is from a single month, it limits the weight I give to it.
25. The Council's concerns are that it is not ascertained whether bats use the site and there would be loss or adverse effects upon suitable foraging and commuting habitat, so the scheme comprises habitats development excluded from a grant of permission under Article 5B of the Order⁵. It also refers an absence of Habitat Evaluation Procedure calculations, compensatory habitat and a detailed lighting strategy. Though I note appeal decisions⁶ where Inspectors were unable to be certain proposals would not result in LSEs, each case needs to be considered upon the specific evidence submitted.
26. Natural England (NE) objected to the scheme because key commuting and foraging habitats for GHBs and LHBs are within the consultation zone. It expects that for proposals within band B, full season surveys (unless minor impacts can be demonstrated) with automated bat detector surveys, to understand how bats use the site, and therefore how impacts on the GHBs and LHBs can be avoided, minimised or mitigated. A lighting strategy is required including modelling of light spill to standards it sets out, and a Construction Management Plan is required by condition to protect vegetation during construction.
27. The appellant's professional ecological evidence states the site does not support habitat that could form an important commuting route or foraging resource, and at most is a small component of a much larger network in the locality. However, there is the potential for elevated value in providing opportunities for foraging LHBs and GHBs associated with the SAC, so it could be regarded as of local importance for foraging or commuting. It concludes the proposals will not give rise to unacceptable harm to habitats and protected species, and potential significant

¹ Citation for Special Area of Conservation dated 14 June 2005 (Ref. UK0030052).

² Para A7.5 of the SPD.

³ Part A, para 2.2 of the SPD.

⁴ At Annex 3.

⁵ The Town and Country Planning (Permission in Principle) Order 2017 (as Amended).

⁶ Ref. APP/D0121/W/23/3331987, Refs APP/D0121/W/25/3361731 and APP/D0121/W/25/3361403.

effects are capable of being either avoided or suitably mitigated, through the application of appropriately worded conditions.

28. I am not persuaded the distance from key roosts is determinative, because these are not the only roosts for GHBs and LHBs. The Council has highlighted that new roosts which have been discovered since the previous SPD was published have been added to consultation zone maps, although neither party has confirmed where these are. Though garden size, management and vegetation may limit suitability, the hedgerows and individual trees may provide suitable foraging habitat. These are along much of three sides and connected to the wider landscape network by other linear features. No substantive detail is provided of surrounding light spill, so there is not full certainty this prevents its use by LHBs and GHBs.
29. It is understood the SPD is being amended to reduce concerns about LSEs. Guidance upon this includes smaller applications, sites where important functionally linked habitat is to remain, and where impacts can be fully avoided. Even were it not demonstrated to be functionally linked habitat, the evidence suggests the site is significantly larger than the 0.2 hectares stated. Even if an adverse effect on the integrity of the SAC were unlikely, under the Regulations while there may not have to be absolute certainty, there should be no reasonable scientific doubt as to the absence of such effects.
30. Though noting the appellant's references to legal cases⁷, given the absence of bat and lighting surveys, I am unable to conclude that it would be disproportionate to dismiss the appeal. Moreover, the submissions imply conditions for lighting and vegetation retention are necessary. These necessary measures are not set out before me in detail for my assessment, and due to these not being secured at the PIP stage, measures would not be secured were I to allow the appeal, and I may only agree to a plan or project, only after having ascertained with sufficient certainty, a scheme will not adversely affect the integrity of habitats sites.
31. Applying the precautionary principle, I cannot be certain the appeal scheme would not have LSEs upon the integrity of the SAC, and adhere to the conservation objectives of maintaining or restoring its integrity. Imperative reasons of overriding public interest do not exist, it has not been demonstrated that there are no alternative solutions, and adequate mitigation measures are not demonstrated as secured by the appeal scheme. Given that I may agree to a plan or project, only after having ascertained it will not adversely affect the integrity of habitats sites, this matter precludes the proposal from proceeding.

Green Belt

32. Framework paragraph 142 states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 states the construction of new buildings should be regarded as inappropriate subject to listed exceptions, and paragraph 155 explains other circumstances in which other development should not be regarded as inappropriate development.
33. Policy CS6 of the CS designates Green Belt and confirms that its boundaries are to remain unchanged during the plan period. Policy DM12 of the SPP1 states that

⁷ Waddenzee (C-127/02) and People over Wind and Sweetnam.

inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances, which is consistent with the Framework. It sets out local policy tests for various exceptions in the Framework, including exceptions at paragraph 154e) and g).

34. Though development plan policies being consistent with the Framework does not mean they must be exactly the same, there is significant inconsistency between DM12 and the latest Framework in respect of redevelopment or infilling on previously developed land (PDL) at 154g). The Framework exception requires proposals should not cause substantial harm to openness, whereas DM12 requires they do not have any greater impact upon openness and should not extend beyond the perimeter of buildings which make up the bulk of the built-up area of the site.
35. PDL is defined by the Framework as including the curtilage of the developed land. The site is not within a built-up area, so is not in principle excluded were it to be regarded as garden land. That the dwelling may have initially been separate from the land, and site has never been granted express consent for a residential garden is noted, but not always determinative. Neither is that the consent for the construction of a garage had a red line that included the appeal site.
36. Noting the historic use as a farm Orchard, the aerial photos indicate a gradual loss of trees and informal vegetation. The 2009 photo indicates the land still had significant informal vegetation cover, and suggestive it is unlikely to have been considered within the curtilage. There is, however, a significant gap in photo coverage. The 2023 photo shows the site not dissimilar to what I saw, with well-mown grassland, formal bedding and a patio area facing south, next to which was a loose line of modest shrubs with several through routes to the appeal site.
37. As I saw the site at my visit, it would appear probable the overall layout and formality of the site might be regarded as garden land. However, this and the appellant's seemingly recent photographs are snapshots in time, and I am overall not persuaded there is sufficient evidence to demonstrate that it can be regarded as a longstanding and lawful residential curtilage through the passage of time. Therefore, I conclude based upon the evidence before me, the appeal site does not comprise PDL and would not meet the exception at Framework paragraph 154g).
38. An exception listed at Framework paragraph 154e) and Policy DM12 is limited infilling in villages. Noting the reference to *caselaw*⁸ it is the situation on the ground, rather than the settlement boundary for Backwell in the development plan, that is determinative as to whether the site meets the exception. An appeal decision letter⁹ from the Council, emphasises that it is the circumstances and context of an individual site upon which such a judgement is dependant.
39. The appeal site is lined by development to its north, and to the west on the opposite side of Backwell Hill Lane which appear as strong defined settlement boundaries. Much of the appeal site is open and verdant, as is much of the land to its south and east save for a workshop cluster and hardstanding. The significant extent of open land seemingly free of built form associated with them adjoining the appeal site on two sides, means on the plans before me and as I experienced it, gives the impression of a continuum of open countryside with the appeal site. The distance

⁸ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195.

⁹ Ref. APP/D0121/W/22/3292823.

to properties further south on Backwell Hill Road means they do not contribute to the feeling of the site being within a village.

40. Though that land is associated with the workshops, its verdant and largely undeveloped nature does not appear as part of the settlement and neither do the workshops. Given the appeal site is largely open and free of built development, and its relationship with open land to the south and east, it forms, is viewed and experienced as part of countryside outside the settlement, and not as part of the much more tightly knit settlement development pattern to the north and west. Therefore, on the ground the appeal site is not within a village. Therefore, it would not meet the exception at Framework paragraph 154e) or defined by Policy DM12.
41. Given my findings in respect of the BFCA, and that Grey Belt excludes land where the application of the policies relating to the areas or assets in footnote 7 would provide a strong reason for refusing or restricting development, the proposal would not meet the definition of Grey Belt land in paragraph 155. Therefore, it is not necessary for me to consider other policy tests in that regard.

Openness

42. The appeal site is largely open and free of built development. The appeal scheme would result in a significant incursion of built development by new dwellings, hardstandings, associated subdivision, paraphernalia, circulation and parking areas, and associated activity and comings and goings. It would result in a significant level of harm to the spatial openness of the Green Belt.
43. The potential for dwellings of a more limited height and scale, sensitive siting and supplementary landscaping, would mean the effects upon visual openness would be more limited. Nevertheless, there would be some visibility from buildings to the north, from limited sections of Blackwell Hill Road, and filtered visibility from a section of the public right of way to the east for a number of years. Therefore, there would be harm to the visual and spatial openness of the Green Belt.

Other Considerations

44. Having considered the various benefits the appellant has set out, including as referenced above in considering the first main issue, those benefits attract moderate weight in favour of the appeal scheme. The appellant considers the CS is out-of-date, because of Framework changes such as changes to Green Belt policy, and the Council's HLS position. It is not substantiated the whole of the CS should be considered out of date for the reasons set out by the appellant, although I note some particular policies referred to.
45. I am informed the Consultation paper on additional sites for the Regulation 19 plan (February 2025) states that many more new sites will be required, including land in the Green Belt, and that the scale of the housing challenge means greenfield sites will be required. Policy CS6 does not specify exceptions to inappropriate development, I have found it is not demonstrated the appeal site is Grey Belt, and the appellant has not substantiated how Framework Green Belt policies and related Planning Practice Guidance should alter the Green Belt boundary in this location. Nevertheless, the HLS situation and the evidence in the Consultation paper may mean the boundaries should be considered out of date. If I were to take this view, the weight attributed to any conflict with the policy would be reduced.

46. The exceptions in Policy DM12 of the SPP1 are no longer consistent with the Framework, so the conflict with it should attract reduced weight. However, this does not mitigate the fact the appeal scheme does not meet the exceptions in the Framework. Noting that the reference to Green Belt is in the supporting text, the conflict with Policy CS32 is not considered out of date due to the update to Framework Green Belt policies.
47. Policy CS14 and CS32 of the CS and Policy SA2 of the SPP2 are consistent with Framework objectives to seek direct development towards appropriate and sustainable locations, through an established pattern of distribution and ensure development respects the character and appearance of the area. However, the deficit in the HLS means they are considered out of date. Based upon the specific evidence before me, I attribute the conflict with the policies limited weight.

Planning Balance & Conclusion

48. Even were I to give the development plan policies limited weight, in-light of my findings above, the appeal scheme would be inappropriate development as defined by the Framework that would, by definition, harm the Green Belt, and result in harm to the visual and spatial openness of Green Belt. In accordance with the Framework, substantial weight should be given to harm to the Green Belt.
49. The development conflicts with policies for the location of new development, to which I attribute the conflict limited weight. I cannot be certain the proposal would not result in LSEs upon a designated habitats site, which is harm of a high order and prevents the proposal proceeding. I have found the proposal would be harmful to the character and appearance of the area. It would also harm the character, appearance and significance of the BFCA for which Framework heritage policies have not been met, and provides a strong reason for refusing permission.
50. Overall, the factors and benefits set out by the appellant, attract moderate weight in favour of the scheme. They would not clearly outweigh the harm identified to the Green Belt, and the other harm, which attracts substantial weight. Consequently, the very special circumstances necessary to justify the development do not exist, so the proposal conflicts with paragraphs 142, 153 – 155 of the Framework, which seek to preserve the openness of Green Belt and protect it from inappropriate development, unless very special circumstances exist. Though attributing the conflict reduced weight, the proposal also conflicts with Policies DM12 of the SPP1 and CS6 of the CS. Nevertheless, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
51. For the reasons set out above, the proposal is contrary to the development plan taken as a whole, the Framework read as a whole, the LBCAA and the Regulations. There are no material considerations advanced including the policies of the Framework that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR