



Appeal Decision

Site visit made on 19 August 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th October 2025

Appeal Ref: APP/J0405/W/25/3363581

Land Adjacent to the Duke of Wellington, Wellington Place, Cooks Wharf, Buckinghamshire LU7 9AD

- 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 Mark Bristow against the decision of Buckinghamshire Council.
 - The application Ref is 24/02222/AOP.
 - The development proposed is outline planning application with all matters reserved except access and layout for the erection of 9 dwellings with associated parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Three different versions of the address were cited across the application form, decision notice, and appeal form. The site access is off Wellington Place, it lies to the south of the converted former Duke of Wellington public house still known by that name, and is in the settlement of Cooks Wharf. For best clarity I have therefore reflected these factors in the address I have used above.
3. The Location Plan red line boundary excludes the western part of Plot 7 and the 'future disabled access and parking area' and adjacent land which are shown on the Proposed Site Layout Plan¹. However, as I am dismissing this appeal for other reasons, it was unnecessary to seek further clarification. The appeal is in outline with all matters reserved except for access and layout. The submitted plans are therefore illustrative only in all other regards.

Main Issues

4. The main issues are:
 - whether the proposed development would be in a suitable location for housing, having regard to the spatial strategy including access to services and facilities;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide sufficient Biodiversity Net Gain (BNG);
 - whether the proposed development should provide for affordable housing; and
 - the effect of the proposed development on drainage and flood risk;

¹ Local Plan BURG/22308/SITELOCC; Proposed Site Layout Plan BURG/22408/SITE9-1E

Reasons

Suitable Location

5. The Vale of Aylesbury Local Plan 2013-2033 (VALP) Policy S1 requires all development to comply with the principles of sustainable development set out in the National Planning Policy Framework ('the Framework'). Policy S2 sets the overall spatial strategy, identifying that strategic growth and investment will be concentrated in sustainable locations in a hierarchy. Policy S3 identifies this hierarchy, and Cooks Wharf is not a settlement named within it. The appeal site therefore lies within a rural area, where Policy S2(j) advises that housing development will be strictly limited and likely to be incremental infill development. In principle therefore, the VALP does not support housing in this location.
6. On a site specific level however, it is also important to assess whether it would be a sustainable location in terms of physical relationships and access to services and facilities. The Framework paragraph 117 states firstly that development should (a) give priority first to pedestrian and cycle movements.
7. New residents would have to undertake very regular travel outside of Cooks Wharf, as the nearest shops and schools are located in Cheddington and Pitstone. These lie further than the typical 800m walking catchment distances as outlined in Planning for Walking (CIHT, 2015). However, even if I were to deem them to be an acceptable walking distance bearing in mind the rural location, these routes include severe access constraints.
8. There is no footway along the majority of Wellington Place. The proposal would provide a pedestrian link from the site's north-eastern corner, with reference that this could include further provision of a footway along Wellington Place, but with no technical or landowner details of whether this could be achieved. Even were this possible, the existing pavement running alongside the terrace to its north is narrow, and would not allow for safe use by persons in a wheelchair or with a pram, or for two persons to easily pass. This pavement then turns into a grass verge a short distance further north, and then a 2.5m wide humpback bridge.
9. Single way traffic across this bridge is controlled with lights, but pedestrians would not see opposing vehicles until near the crest, with no ability at that point to take refuge. I found this very evident on my site visit. Even with local knowledge of traffic light patterns and general traffic movements, this route would be potentially dangerous, especially for persons with reduced mobility, wheelchairs, or prams. On this basis, I see no need to consider the width of the pavement continuing further northwards.
10. The route towards Pitstone along Cheddington Road from its junction with Wellington Place, also has no pavement for approximately 80m, and barely any verge. This route also requires passing through the tunnel under the train tracks, where again there is potential for pedestrian and vehicle conflict. The tunnel does allow for views through to allow judgement whether it is safe to enter, but the impact from the lights change at the humpback bridge means that traffic can be continuous, as evident on my site visit. This provides minimal opportunity for pedestrians to go through safely or to cross over the carriageway.
11. There are also no streetlights in Cooks Wharf. The unpaved narrow canal towpath would only allow commuting in fair weather and daylight, and users would still

need to cross over the humpback bridge. That existing residents may currently be walking these routes, with no injuries or deaths recorded, does not justify putting more people in harm's way. Overall therefore, the proposed 9 new dwellings would create a potentially harmful conflict between pedestrians and vehicles, particularly for vulnerable persons. The proposal would conflict with the Framework paragraph 117(a) and (c) regarding giving priority to pedestrians, and minimising the scope for conflicts between pedestrians and vehicles.

12. Walking to bus stops outside of Cooks Wharf would be unlikely. The bus stops within the hamlet provide only infrequent services, including that bus timings would not allow for typical commuting patterns. There are no Sunday services. Waiting for this bus service would also be difficult for persons in wheelchairs or with prams due to the narrow or non-existent footways. The potential few additional patrons may encourage the bus company to maintain this route, but conflict with the Framework paragraph 177(a) and (b) would still arise, whereby development should so far as possible facilitate access to high quality public transport, and address the needs of people with disabilities and reduced mobility in relation to all modes of transport.
13. The appellant's 7th October 2024 email to the Council stated that they would of course be prepared to build a footpath over the canal towards Cheddington, and contribute towards traffic calming measures under the railway bridge. However, no further details of these are before me, including no guarantee of their provision. Without more certainty that these would be technically possible and suitable, I am not able to defer such matters to condition stage, and thus have not taken them into account as part of the proposal.
14. There is the possibility of cycling to the station in Cheddington for a multi-modal journey, or directly to other facilities, although daily primary school journeys would be highly unlikely by bike due to the difficult road conditions. The adjacent mooring facilities offer the opportunity for new residents to travel along the waterway, but this would only be recreational. Although the appeal dwellings would include EV charging facilities, these are mandatory under the Building Regulations. The proposal would not ensure that only zero emissions vehicles were used.
15. The appellant argues the precedent of multiple other housing permissions in Pitstone, with distances to bus stops having been in excess of that from the appeal site, and/or the same width of existing pavements. However, each case must be assessed on its own merits, and there is very limited evidence of those other schemes before me. For example, they may have had a range of other benefits or other material considerations to outweigh any accessibility issues. The site context and nearby road layout of the proposal before me is inevitably markedly different to that of any schemes outside of Cooks Wharf. Moreover, although the Framework paragraph 83 refers when development in one village may support services in another village, Cooks Wharf is not a village. The comparative support to local services in Pitstone from the proposed 9 dwellings would be minimal compared to that from these previous large-scale permissions.
16. As such, the combination of safety concerns, the limited bus service, and the distance to daily facilities, would create a very high dependence on the use of private cars by new residents. Residents would be unable to safely access any facilities on foot, and those with mobility issues would be significantly disadvantaged. Overall, I find the appeal site is not in a sustainable or suitable

location for housing, having regard to the spatial strategy. In this regard it would conflict overall with the Framework, and with the VALP Policies S1, S2, and S3.

17. Regarding pedestrian safety, the proposed development would also specifically conflict with the Framework paragraph 117 as outlined above, and also with paragraphs 115 and 116, whereby developments should ensure that sustainable transport modes are prioritised, that safe and suitable access to the site can be achieved for all users, and that they should only be prevented on highways grounds if there would be an unacceptable impact on highway safety. Conflict with the VALP Policies T1 and T5 would also arise, as they encourage modal shift and greater use of more sustainable forms of transport, improving the safety of all road users, and require no unacceptable transport impact. I note the decision notice also references the VALP Policy T4, but I find it not directly relevant as it only relates to capacity in the transport network.

Character and Appearance

18. The development would extend the hamlet's built form southwards, notwithstanding the existing boat club buildings to the site's south. This would be of a significant extent compared to its size and extent of built form at present. Nonetheless, it would be relatively self-contained by virtue of the thick boundary vegetation along the frontage, the south, and along the canal. From the canal towpath the site's character is not entirely undisturbed and natural, due to the moorings running along the whole stretch of the appeal site, and the boatyard buildings acting as bookends. The appellant identifies that these moorings have been in use for long-term residential occupation for over four decades. Although a rural vista, additional development if well-designed and well-screened would not therefore necessarily be untoward.
19. The Council also considers that the indicative dwelling designs would be at odds with the surrounding traditional building design with relation to height, and in forming a more urbanised form of development as visible from the canal towpath. However, the scale and appearance of the dwellings are reserved matters. The future dwelling designs could be smaller than currently indicated, and could also be mitigated by landscaping as another reserved matter.
20. The site's cul-de-sac type looped road layout would not follow the predominant linear pattern of active road frontages of existing dwellings, but this is due to the site constraint of the thick road frontage vegetation. In itself, I do not find a cul-de-sac inappropriate, as it would allow a set back development pattern similar to that at the Pitstone Wharf Marina, and the detached dwellings by the canal curve. However, the internal layout would be disjointed. There would be a large extent of carriageway and hard surfacing for only 9 dwellings, a parking court on the opposite side of the carriageway instead of any in-plot provision for plots 1-3, and some parking/car ports well away from plots 7-9. This is exacerbated by the 3 separate layout patterns of the dwellings. The layout overall would read as a series of 3 separate schemes, rather than a cohesive whole providing internal legibility.
21. Overall therefore, the proposed access and layout would cause slight harm to the character and appearance of the area. It would conflict with the VALP Policies BE2, BE4 and NE4, which together and amongst other matters, require development to constitute an effective use of land, and respect and complement the scale and context of the site and its setting, and the local distinctiveness and vernacular character of the locality in terms of ordering, form, spacing, and plot

shape and size. The Framework paragraph 135 also requires proposals to be visually attractive including as a result of good layout, and to establish a strong sense of place, using the arrangement of streets, spaces, and building types to create attractive and welcoming places.

Affordable Housing

22. The VALP Policy H1 identifies that residential developments of 11 or more dwellings gross or sites of 0.3ha or more will be required to provide a minimum of 25% affordable homes on site. It further identifies various requirements for such affordable housing, and includes that an open book financial appraisal is required if this level of provision would be unviable.
23. The site size is 0.98ha, but no affordable housing has been suggested, nor any justification on the grounds of viability. The only justification at appeal stage is that the appellant was unaware of this as a requirement, having assumed the scheme reductions from the previous application would drop the proposal below the affordable housing threshold. Although the Council could have raised this issue with the appellant at an earlier stage in the application determination process, Policy H1 has been the adopted policy within the VALP since September 2021. It is primarily the appellant's responsibility to consider all relevant policies.
24. Affordable housing matters cannot be delayed to condition stage as it is too integral to the assessment of the proposal as a whole. The lack of affordable housing would not ensure a mixed and balanced community. As such, it would therefore conflict with the VALP Policy H1.

Biodiversity Net Gain (BNG)

25. BNG is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). Every relevant planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met, in that development delivers at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. The Framework paragraph 187(d) also requires BNG, and the VALP Policy NE1(c) requires measurable BNG.
26. Although the proposal would result in a 22.63% gain in hedgerow units, there would be a loss of 1.07 habitat units, equivalent to 17.14%. Therefore, 1.69 compensatory habitat units would be required to achieve a 10% net gain. The appellant identifies that due to the site's size and available space, this could not be achieved on-site while remaining viable. They suggest that should it be necessary, this shortfall could instead be rectified through procuring biodiversity credits from one of Buckinghamshire Council's accredited 3rd party providers such as Trust for Oxfordshire's Environment, or through the use of Statutory Biodiversity Credits.
27. However, there is no further information to demonstrate sufficient certainty that this off-site provision would be achieved, such as the off-site gains having been quoted for and secured, or that statutory credits have been purchased. A grant of permission would assume the statutory biodiversity gain condition would be in place, which would be an inappropriate approach to defer such BNG consideration without the necessary baseline level of information at this stage.
28. The Council highlights that the BNG baseline and Metric excludes the area in the northwest corner of the site as shown on the Proposed Site Layout Plan, and so

the habitat unit loss would be greater than that suggested in the evidence. However, I have not sought revised plans, partly because these should in any case have been submitted alongside the appeal, but primarily because it would not affect the outcome of my above conclusion on this issue.

29. Overall, the proposal would demonstrate insufficient provision of BNG. It would conflict with the statutory BNG requirements, the Framework paragraph 187(d), and the LVALP Policy NE1(c) as outlined above.

Drainage

30. The application was refused due to a failure to provide adequate information to demonstrate the achievement of a robust on-site surface water management to complete a Sustainable Drainage System (SuDS) Appraisal. The proposed development would be susceptible to surface water flooding, but at application determination stage the Council considered that it had not demonstrated the effective management of surface water run-off on site, or that it would not increase flood risk elsewhere.
31. The appeal provided no substantive additional drainage information. The Council's Sustainable Drainage Officer therefore repeated their previous objection on the basis of additional information being required. This relates to photographic evidence of the existing outfall to the Grade Union Canal and an annotated map of its location; written confirmation from the Canal and River Trust of the agreed discharge rate; and an updated Preliminary Surface Water Drainage Strategy to include the piped network to demonstrate areas of permeable paving, and how surface water runoff from the roofs and hardstanding areas would be conveyed to the detention basin.
32. In the absence of evidence of the existing outfall pipe, the viability of this location has not been demonstrated. As the canal is the final discharge receptor, there is a risk that surface water discharge into the canal would be increased, which has not been agreed to be viable. There is no clarity as to how surface water runoff from the roofs and hardstanding areas would be conveyed to the detention basin, or where permeable paving would be used.
33. Other drainage matters such as maintenance could be addressed via condition, but the above matters are integral to the principle of the proposal. I thus find no reason to conclude differently from the Council's technical expert in this matter. The proposal would therefore not demonstrate the effective management of surface water run-off on site, or that it would not increase flood risk elsewhere. It would conflict with the detailed criteria within the VALP Policy I4, regarding flood risk management, flood risk assessments, and sustainable drainage systems.

Other Matters

Special Area of Conservation

34. The site lies within 12.6km of the Chiltern Beechwoods Special Area of Conservation (SAC), afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). As the Competent Authority, I may only grant permission after having ascertained for myself that the proposed development would not affect the integrity of this or any other protected site. The VALP Policy NE1 reiterates the Habitat Regulations, to

not permit development likely to affect the SAC unless any significant adverse effects can be fully mitigated, or exceptional circumstances can be demonstrated.

35. There are likely significant in-combination effects on this SAC resulting from increased recreational pressure from new housing development. This pressure includes disturbance from the presence of humans and dogs, damage, contamination, and fire. Natural England advised in October 2024 that mitigation measures would be necessary to rule out adverse effects on the integrity of the SAC, including provision of Suitable Alternative Natural Greenspace (SANG) or financial contributions towards a strategic SANG, and/or financial contributions towards the Strategic Access Management and Monitoring strategy.
36. The appeal proposal would therefore be required to provide such mitigation. The appellant identifies that no SANG has been delivered by the Council, such that it is not in a position to positively approve any application whereby such an agreement is required. Even so, the proposal does not include any specific details of any type of mitigation or how it would be secured. I cannot overlook this issue as I must be certain that the statutory Habitats Regulations mitigation requirements would be met. Nonetheless, as I am dismissing the appeal on other grounds, the outcome of further consideration of any proposed mitigation would not be determinative.

Planning Balance and Conclusion

37. The Council can only demonstrate 3.62 years housing supply. However, I found above that the proposal would have a likely significant in-combination effect on the Chiltern Beechwoods SAC. The Framework paragraph 11(d)(i) footnote 7 refers that the application of the Framework policies that protect areas or assets of particular importance, including Habitats Sites, provides a strong reason for refusing a proposed development. I find the impact on the SAC would thus be such a reason. Accordingly, the proposal does not benefit from the Framework presumption in favour of sustainable development as a material consideration.
38. There would be some benefits arising from the provision of 9 new dwellings, including their contribution to the Council's urgent housing need, and economic benefits from their construction and occupation. This is supported by the Framework paragraph 73, whereby small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are essential for small and medium enterprise housebuilders to deliver new homes.
39. However, the proposal would be on a greenfield site on the edge of a hamlet unidentified in the settlement strategy, and has the potential to cause significant harm to pedestrians due to likely conflict with vehicles. It would be an unsustainable location due to the very high reliance on the private car. No affordable housing would be provided, and there has been unsatisfactory demonstration of BNG provision, drainage and flood risk management, and mitigation for the proposal's likely effects on a Habitats site. There would also be minor harm to the character and appearance of the area.
40. Only very limited additional relevant evidence has been submitted at appeal stage, to counter the Council's objections and concerns as raised during its determination, and the decision notice reasons for refusal. I find it overwhelmingly evident that the combination of this harm outweighs the benefits of new housing in this location.

41. In conclusion therefore, the proposal would conflict with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR