



Appeal Decision

Site visit made on 21 August 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th October 2025

Appeal Ref: APP/E3335/W/25/3361689

Land at Dillons Road, Creech St Michael, Taunton TA3 5DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Huntworth Properties against Somerset Council.
 - The application Ref is 14/24/0026.
 - The development proposed is a residential development of 7 bungalows and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 7 bungalows and associated works at Land at Dillons Road, Creech St Michael, Taunton TA3 5DS in accordance with the terms of the application, Ref 14/24/0026, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, I have had regard to the Council's appeal statement which sets out that the planning application would have been approved had the Council been able to do so.
3. The application form did not contain a full site address. I have therefore utilised the address as provided on the appellant's appeal form which was also used as part of a previous appeal decision for the site.

Main Issue

4. The main issue is whether financial contributions are necessary in relation to off-site affordable housing and off-site children's play provision.

Reasons

5. Outline planning permission for the provision of up to seven bungalows was allowed at appeal in December 2023¹. As part of that proposal, financial contributions were to be provided in relation to off-site affordable housing and off-site children's play provision.
6. As part of this full planning application, the appellant has provided a Viability Report which was produced by Chesters Harcourt in September 2024 (the VR). The VR concludes that, when factoring in the previously agreed financial contributions, the proposed development would be unviable. Furthermore, the VR

¹ Appeal ref: APP/W3330/W/22/3312150

also appraises the scheme based on differing levels of contributions. Crucially, it concludes that, if the contributions were removed in their entirety, the scheme would remain unviable, albeit in a much improved position. Having carefully considered the full content of the report, I can see no reason to disagree with the conclusions reached. I also note that the Council commissioned an independent review of the VR, and as a result, are also satisfied that the findings are robust.

7. I note that the Council still considers that the lack of any financial contributions would conflict with the relevant development plan policies. In my view it is Policy CP4 of the Taunton Deane Core Strategy 2011 – 2028 (the CS) and Policy C2 of the Taunton Deane Site Allocations and Development Management Plan 2016 (the SAP) that are of most relevance to the consideration of this appeal.
8. CS Policy CP4 seeks contributions towards affordable housing on sites of five or more dwellings. However, the policy goes on to state that, where scheme viability may be affected, applicants should provide development appraisals in order to determine the level of provision that would be appropriate. In this instance, the VR clearly demonstrates that an absence of contributions towards off-site affordable housing provision is appropriate and indeed necessary. The proposal therefore conforms with this policy.
9. Furthermore, SAP Policy C2 requires applications to respond to the relevant standards for open space provision, including children's play areas. However, the policy also sets out that this is subject to viability. Again, based on the findings of the VR, I am also satisfied that the scheme would conform with this policy.
10. CS Policies CP5 and CP7 seek the provision of inclusive housing and community infrastructure respectively. However, they must be read in the context of the other, more detailed policies referenced above. With this in mind, I conclude that the proposal would conform with CS Policies CP4, CP5 and CP7, as well as SAP Policy C2.

Other Matters

11. The site is within the catchment of the Somerset Levels and Moors Ramsar site. The Ramsar site is one of the largest and richest areas of traditionally managed wet grassland and fen habitats in lowland parts of the UK. As such, it supports a wide variety of flora and fauna.
12. The proposed development would increase phosphates within the hydrological catchment through the production of wastewater which could lead to degradation of habitats or changes in water quality. Significant effects therefore cannot be ruled out. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the Ramsar site.
13. The appellant has provided a Nutrient Neutrality Assessment and Mitigation Strategy which was produced by WCI Nutrient Neutrality in May 2024. The strategy concludes that the proposed development would result in an increase in phosphorus load of 0.79 kg.TP/yr. The main parties have agreed that the effect of the proposal on phosphates can be successfully mitigated by purchasing 'P-credits' through the upgrade of existing septic tanks with a Package Treatment Plant. In this instance a reservation notice has been provided to secure the necessary P-credits which would result in a reduction in phosphorus load of

0.8 kg.TP/yr, thereby providing nutrient neutrality. The purchase of credits is in accordance with the Council's strategy, a weblink to which was provided to me by the appellant. Prior to the commencement of development, the submission of an Allocation Certificate will be required. This can be secured via an appropriately worded condition.

14. Natural England has been consulted as part of this Appropriate Assessment and has confirmed that the proposed mitigation would successfully address the effects associated with the proposed development.
15. Based on the evidence before me, I am therefore satisfied that the purchase of credits would sufficiently mitigate the level of harm likely to be caused by the development and would be pursuant to the Council's published strategy. I therefore find that the proposal would not result in an adverse effect on the integrity of the Ramsar site.
16. There is no substantive evidence before me that would lead me to conclude that the proposal would result in harm in relation to highways or highway safety. Indeed, I note that the Highway Authority has not objected to the scheme. There is also nothing substantive before me that suggests that the proposed approach to the disposal of wastewater would not be sufficient or that existing services and facilities would be negatively affected by the construction of the seven dwellings. Given the proposed design and layout of the development, and the potential to incorporate new landscaping, I am also satisfied that the proposal would preserve character and appearance and would not result in unacceptable harm to the living conditions of existing occupiers in terms of loss of privacy, light or outlook, or in relation to any additional noise, pollution or general disturbance.
17. The proposal would result in the loss of a small area of agricultural land, but any such impacts were already considered as part of the previous grant of outline planning permission. Moreover, this issue would clearly be outweighed by the benefits of the scheme. The appellant has provided evidence to demonstrate that the development would result in an increase in biodiversity thereby providing ecological benefits overall, while there is no substantive evidence to suggest that, subject to conditions, wildlife species would be negatively affected. Details of a scheme to manage surface water flooding can be secured via condition. I am also satisfied that the impacts of the construction phase can be sufficiently managed through the imposition of a suitably worded condition. Finally, several third parties have raised concerns about the potential for a link between the site and an existing public right of way. However, I note that the approved plans for this proposal do not include such a link.

Conditions

18. I have imposed conditions to identify the relevant plans and timescales in the interests of certainty. Conditions relating to materials and landscaping are required to preserve character and appearance. Further conditions are also required to manage surface water and the effects of the development upon residents and wildlife, including during the construction phase. Various conditions relating to highways are necessary, including remediating damaged roads and the provision of parking spaces, cycle spaces and electric vehicle charging points.
19. Conditions relating to landscaping, surface water drainage, construction, the condition of the highway, wildlife and nutrient neutrality are imposed as 'pre-

commencement' conditions. This is necessary as these are details that must be agreed or resolved prior to construction.

20. The appeal proposal is subject to statutory biodiversity net gain (BNG). The submitted details indicate that BNG beyond the minimum required can be achieved subject to further details. However, it is not necessary to impose a condition requiring the submission of a biodiversity gain plan (BGP), or to seek to guide the content of it, because the deemed biodiversity gain condition, under paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended), ensures that the development cannot commence until a BGP has been submitted to and approved by the local planning authority.

Conclusion

21. The proposed development is in accordance with the development plan when considered as a whole. Having had regard to all matters raised, I conclude that the appeal should be allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within three years of the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 001 Existing Location Plan
 - 100 Rev B Proposed Site Plan
 - 101 Rev B Proposed Floor Plan & Elevations Plots 5 & 7 (4 Bed)
 - 102 Rev A Proposed Floor Plan & Elevations Plots 1,4 & 6 (3 Bed)
 - 103 Rev A Proposed Floor Plan & Elevations Plots 2 & 3 (2 Bed)
 - 105 Rev C Proposed Overall Site Plan
- 3) Prior to the construction of the buildings above damp proof course level, details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.
- 4) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the approved scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted. The scheme shall be completely carried out within the first available planting season (1 October to 31 March) from the date of commencement of the development. Written confirmation of the completion of the landscaping scheme shall be submitted to the Local Planning Authority. For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow or are uprooted shall be replaced by trees or shrubs of similar size and species.
- 5) No development shall be commenced until details of a surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to, and approved in writing by, the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post-development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved Construction Method Statement which shall provide for:
 - a. a 24 hour emergency contact number;
 - b. construction operation hours;
 - c. expected number of construction vehicles per day;
 - d. construction vehicle movements;
 - e. construction vehicular routes to and from the site;

- f. arrangements for turning vehicles;
- g. construction delivery hours;
- h. locations for loading / unloading and storage of plant, waste and construction materials;
- i. arrangements to receive abnormal loads or unusually large vehicles;
- j. measures to protect vulnerable road users (including cyclists and pedestrians);
- k. parking for vehicles of site operatives, visitors, and contractors (including measures taken to ensure satisfactory access and movement for existing occupiers of nearby properties during the construction period for the development);
- l. any necessary temporary traffic management measures;
- m. methods to limit noise and vibration to levels appropriate to the residential context;
- n. methods to ensure compliance with the noise and vibration levels specified;
- o. methods of preventing mud from being carried onto the highway;
- p. methods of cleaning the highway in the event that mud / dirt from construction operations congregates on the highway;
- q. methods of communicating the Construction Method Statement to staff, visitors and nearby residents and businesses;
- r. specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice (including construction-period airborne and waterborne pollution prevention measures);
- s. a scheme to encourage the use of public transport and car sharing amongst site operatives and contractors; and
- t. measures to avoid traffic congestion impacting upon the Strategic Road Network.

- 7) No development shall take place (including investigation work, demolition, or siting of site compound / welfare facilities) until a survey of the condition of the adopted highway has been submitted to, and approved in writing by, the Local Planning Authority. The extent of the area to be surveyed must be agreed by the Highways Authority prior to the survey being undertaken. The survey must consist of: a) a plan to a scale of 1:1000 showing the location of all defects identified; and b) a written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.

Any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site.

- 8) The development hereby permitted must not be occupied until a scheme showing precise details of proposed cycle parking facilities for the dwellings is submitted to the Local Planning Authority and approved in writing. Once approved, any such scheme must be constructed before the development is occupied and, thereafter, must be maintained, kept free from obstruction and available for the purpose specified.

- 9) Before the development is occupied, electric vehicle charging points and parking bays for each new dwelling must have been constructed to working order. Thereafter, they must be maintained, kept free from obstruction and available for the purposes specified in perpetuity.
- 10) The development hereby permitted shall not be occupied until all parking spaces for the dwellings, and a properly consolidated and surfaced turning space for vehicles, have been provided and constructed within the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces shall be kept clear of obstruction in perpetuity and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
- 11) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) risk assessment of potentially damaging construction activities
 - b) Identification of "biodiversity protection zones"
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, badgers buffer zones etc.
 - d) The avoidance of the use of any external lighting and/or implementation of a sensitive lighting plan ensuring that the boundary/adjacent habitats are not impacted by light spill.
 - e) Lighting on and around the new buildings should be minimised in order to provide a limited increase in lighting within the areas between the property and the hedgerows so as to avoid disturbance to bats utilising these for commuting and foraging. It is recommended that outdoor lighting erected within the site should be on motion sensors (where appropriate) and use low wattage rated bulbs which do not emit light from the UV end of the light spectrum. It is also recommended that the bulbs are covered and positioned downwards so as to minimize light spill.
 - f) Between 1st April and the 31st October works during the construction phase should be undertaken starting no earlier than 30 minutes after sunrise and finishing no later than 30 minutes prior to sunset with no site lighting to be left on overnight. Noise disturbance should also be kept to a minimum during this time.
 - g) Updated survey of affected habitats no less than a month prior to works commencing;
 - h) Exclusion of badgers under a Natural England badger licence should any active setts be discovered that require removal/disturbance during works; and good practice construction measures to ensure badgers are either unable to access the construction site or cannot become trapped in excavations (e.g. through covering up at night or inserting an 'escape ramp')
 - i) Habitat manipulation will be undertaken to encourage reptiles to disperse to areas of retained habitat around site margins. These works will only be undertaken during the reptile active season of April to October inclusive,

in suitable weather conditions when temperatures exceed 10°C. Habitat suitability will be reduced by strimming vegetation using a staged cutting process;

- j) Initially, the grassland vegetation will be cut to approximately 150mm, (starting from the south and working north) with the arisings removed and habitats left for a minimum of 48 hours in suitable weather conditions i.e. no rain or high winds;
- k) A further cut will then be made to 50mm, beginning at one end of the site and moving in one direction (from south to north), to encourage any remaining reptiles towards the retained areas of suitable habitat.
- l) Once complete, the vegetation will be maintained at a low-level (<50mm) until the start of development works.
- m) The location and timing of sensitive works to avoid harm to biodiversity features.
- n) The times during construction when specialist ecologists need to be present on site to oversee works.
- o) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- p) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person [including regular compliance site meetings with the Council Biodiversity Officer and Landscape Officer (frequency to be agreed, for example, every 3 months during construction phases)];
- q) Use of protective fences, exclusion barriers and warning signs.
- r) Evidence (written statement and or photos) of meetings, toolbox talks, protection measures etc will be required upon completion of works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

12) A Habitat Management and Monitoring Plan (HMMP) must be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the HMMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.
- i) Evidence (written statement and or photos) of meetings, toolbox talks, protection measures etc will be required upon completion of works.

The HMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also

set out (where the results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 13) Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.
- 14) No vegetation/building removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.
- 15) Where external lighting is to be installed, prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed. Lux levels should be below 0.5 Lux on key & supporting features or habitats. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. Internal lighting should be recessed where installed in proximity to windows and blinds should be fitted to reduce glare and light spill (Institution of Lighting Professionals & the Bat Conservation Trust 2018).
- 16) The development hereby permitted shall not be commenced until an Allocation Certificate has been submitted to and approved in writing by the Local Planning Authority which addresses the additional nutrient input arising from the development within the fluvial catchment area upstream of the Somerset Levels and Moors Ramsar site and on the same hydrological pathway. The Allocation Certificate shall be a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement generated by the development, thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied enabling the Local Planning Authority to conclude on the basis of the

best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

End of Schedule