



Appeal Decision

Site visit made on 2 September 2025

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal Ref: APP/E3335/W/25/3360981

Plot 22, Mill Meadow, Parsonage Lane, Kingston St Mary, Taunton, Somerset TA2 8HL.

- 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 Joe Heayns against the decision of Somerset Council.
 - The application Ref is 20/24/0013.
 - The development proposed is erection of a self-build/custom build dwelling, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site forms part of a wider development which was initially for the erection of a number of log cabins for holiday use and through subsequent planning permissions has been extended. Some of the plots have been developed and subsequently varied through planning consents, removing the requirement for them to be used solely for holiday use. Collectively, the wider development is known as Mill Meadow.
3. The appeal before me concerns an undeveloped plot within Mill Meadow and is one of six linked appeals relating to sites at Mill Meadow that I am currently determining.
4. In summary, the Council's first reason for refusal says that the proposed development lies outside the designated settlement boundary, placing it within open countryside and that this location is considered unsustainable, as future residents would be heavily reliant on private vehicles.
5. Following the December 2024 revision of the National Planning Policy Framework ('the Framework'), the Council can no longer demonstrate a five-year housing land supply, which on the evidence available to me is about 3.1 years. Consequently, and although the Council maintains that the site is in an unsustainable location, having regard to paragraph 11(d) of the Framework, it has concluded, that the harm does not clearly outweigh the benefits of a new dwelling. Therefore, the Council is no longer pursuing refusal of the proposal based on its location, provided other outstanding issues are resolved. However, as this is largely a matter of planning judgement, it remains a main issue for the purposes of my Decision.

6. Accordingly, the main issues are:

- i) Whether the appeal site is in a suitable location for market housing with regard to the spatial strategy for the area;
- ii) Whether the proposal should make provision for affordable housing; and
- iii) Whether the proposal would affect the integrity of the Somerset Levels and Moors Ramsar Site, Special Area of Conservation and Special Protection Area ('the Habitat Sites').

Reasons

Suitability of location for housing

- 7. There is no dispute between the main parties that the appeal site is outside of settlement boundaries defined under Policy SP1 of the Taunton Deane Core Strategy 2011 – 2028 Development Plan Document, September 2012 ('CS'). Therefore, the location of the appeal site is treated as countryside for planning policy purposes. Policy KSM9 of the Kingston St Mary Neighbourhood Plan ('NP'), only supports new build housing within the settlement limits.
- 8. Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan (2016) ('DMP') says that in order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of settlement boundaries will be treated as open countryside. It further says that such proposals will be assessed against CS policies CP1, CP8 and DM2 unless it accords with a specific development plan policy. Policy CP8 of the CS, largely relates to environmental matters and is not directly relevant to this main issue.
- 9. CS Policy DM2 specifically supports community uses, business use, holiday and tourism, non-residential agriculture and forestry buildings, replacement dwellings, affordable housing, conversion of existing buildings and essential utilities infrastructure. As a result, and although the policy does not specifically exclude residential development, this does not offer specific support for the proposal.
- 10. Policy CP1 of the CS says that development proposals should contribute to a sustainable environment and, among other objectives, minimise the need to travel through strategic locational choices. In support of this, and with regard to accessibility, Policy A5 of the DMP requires that residential developments be situated within walking distance of essential services and facilities. Specifically, acceptable walking distances are defined as up to 400 metres to bus stops and up to 800 metres to local shops.
- 11. Policies SP1 of the CS, SB1 of the DMP and Policy KSM9 of the NP, appear more restrictive than the Framework, particularly in relation to development outside defined settlements. Nevertheless, when taken together, these policies form the areas spatial strategy and support key principles such as reducing the need to travel through strategic locational choices, promoting suitable rural uses, and ensuring new residential development is well-connected to essential services and facilities. These aims are consistent with the Framework's overarching goal of fostering sustainable, inclusive, and well-integrated communities.

12. The village of Kingston St Mary does offer some amenities, including a primary school, village hall, post office, public house and church. While there is a permissive path through “The Spinney” Forest to the northeast of the appeal site towards this village, I do not consider this route suitable for use during inclement weather or for those with mobility issues. A bus stop is located about 300 metres from the entrance to Mill Meadow. Nevertheless, the walk to this bus stop is along a rural lane with limited lighting and pavements and therefore does not appear to be particularly safe for walking.
13. Although the site is located on the designated Taunton Deane Cycle Route, I have limited information regarding the quality of this. As such, I cannot be certain that this route is suitable for all cyclists, including the elderly.
14. The appellant advises that the site is within 20 minutes of Taunton by bus. However, the bus service from Kingston St Mary operates only every two hours on weekdays. This level of service is insufficient to support regular, reliable access to employment, education, healthcare, and shopping. Moreover, access to the bus service from the appeal site is via roads, which are largely designed for vehicular traffic. Overall, this route is unattractive and potentially unsafe for pedestrians, further reinforcing car dependency.
15. While the site may be 10 minutes from Taunton by car, this undermines the local and national planning policy aims to reduce reliance on private vehicles.
16. In light of the above, I do not consider the site’s location to be easily accessible and therefore the occupiers of the development would be largely reliant on private vehicles to access day to day services. It follows from this that the site is not suitable for market housing development with regard to the spatial strategy for the area.
17. The plot subject of this appeal has been approved for use as a second home. According to the appellant’s submissions, second homeowners often use such properties in a similar fashion to their main residences, albeit in a different location. However, it is important to recognise that permanent residents typically require regular access to essential day-to-day services such as healthcare, employment, education, and local amenities. These needs are generally less frequent or absent in the case of second home occupation. As a result, while the appellant suggests there may be minimal differences in traffic patterns and journey destinations, the nature and frequency of trips associated with permanent residency are likely to be more intensive and service-oriented than those generated by second home use.
18. As such, the proposal is contrary to the requirements of policies CP1, SP1 and DM2 of the CS, policies A5 and SB1 of the DMP, and Policy KSM9 of the NP.

Affordable housing

19. Policy CP4 of the CS, seeks to deliver around 4000 new affordable housing units. A target of 25% of new housing should therefore be in the form of affordable units over the Plan Period. Therefore, affordable housing is sought on sites of 5 or more dwellings.
20. When Mill Meadow was originally approved as a site for holiday use this was not subject to any affordable housing requirements. As already stated, through variations on planning permissions, some of the individual properties are no longer

required to be occupied for holiday use only. As such, the Council considers that the rural affordable housing threshold, which in accordance with the Framework is 5 units or fewer has been cumulatively exceeded by this and other applications that have established full residential use at Mill Meadows or are subject to other linked appeals before me.

21. In respect of the above, I have been referred to case law¹ that provides three criteria to determine and assess the piecemeal development of sites or/and aggregation of sites for the purposes of applying an affordable housing policy threshold. The three criteria include: a. the ownership of the site; b. whether the land could be considered to be a single site for planning purposes; and c. whether the development should be treated as a single development. Whilst these criteria are not determinative, they are useful in forming an overall planning judgement as to whether proposals would be aggregate development or not.
22. With regard to the first criteria, since the original permissions were granted in 2005 and 2006, Mill Meadows has been divided up into individual plots some of which have been constructed and sold. The constructed plots are all in private freehold ownership. I am also advised that the owners of all of the sites for the current applications are different. Fragmentation of legal ownership over time indicates that the original planning unit has evolved into distinct, individually managed plots.
23. In terms of the second criteria, the appeal site is considered to be a single site for planning purposes. This is because other than a shared road into Mill Meadow and a management company responsible for maintaining its wider grounds, in general each plot would have its own access and services. Therefore, physically and for ownership reasons this plot is distinct.
24. With respect of the final criteria, given the above, the current proposal relates to an individual plot. The division of ownership at Mill Meadows occurred well before the introduction of the designated rural area threshold in 2014. In any case, this proposal falls below the present threshold in the development plan and therefore does not trigger affordable housing requirements.
25. Drawing on the above reasons, affordable housing is not necessary to make the proposal acceptable in planning terms and does not conflict with CS Policy CP4.

The Somerset Levels and Moors Ramsar site

26. The appeal site is within the catchment area of the Habitat Sites. These are a series of wetlands located in Somerset, reaching from Clevedon near Bristol in the north, to Glastonbury in the east and Ilchester and Langport in the south. The landscape includes rivers and wetlands, which are artificially drained, irrigated and modified to allow productive farming.
27. The Habitat Sites are protected by the Conservation of Habitats and Species Regulations 2017 (as amended). In order for development to be acceptable, these Regulations require it to be demonstrated that it will have no likely significant effect on the Habitat Sites, either alone or in combination with other proposals. If it cannot, measures must be proposed to remove the impact, for example, a satisfactory scheme of mitigation (i.e. one that can demonstrate the nutrient neutrality of the proposed development), or the proposal should be refused.

¹ R (Westminster City Council) v First Secretary of State & Brandlford Limited [2003] JPL 1066

28. Currently, there are high nutrient inputs into the water environment of the Habitat Sites catchment with sound evidence that this is causing eutrophication at the Habitat Sites. These nutrient inputs are currently thought to arise predominantly from wastewater from existing housing and agricultural sources. This nutrient enrichment is contributing towards adverse impacts on the protected habitats and species within the Habitat Sites.
29. Natural England advises that additional residential development within the catchment area of the Habitat Sites is likely to have a significant effect on them either alone or in combination with other proposals.
30. Adopting a precautionary principle and without mitigation, new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from increased nitrate and phosphate levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Regulations, to conduct an Appropriate Assessment ('AA') in relation to the effect of the development on the integrity of the Habitat Sites.
31. The application is supported by a Nutrient Neutrality Assessment ('NNA') this quantifies the level of phosphates generated by the development and identifies mitigation measures to demonstrate that nutrient neutrality can be achieved.
32. The NNA identifies that the proposed development can achieve nutrient neutrality through one of two methods. The first method relies on planning application reference 20/24/0007, which is one of the linked appeals before me. This application seeks permission to reduce five approved four-bedroom properties to five two-bedroom properties at plots 5, 6, 8, 10 and 12, originally approved under application 20/06/0038. The reduction in property size decreases the phosphate load associated with application 20/24/0007, resulting in a phosphate betterment of 0.52 kg/year.
33. The appellant advises that this betterment is sufficient to offset the phosphate loading from both the proposed development and the additional new-build property at plot 23, each of which generates a phosphate load of 0.11 kg/year (0.22 kg/year total). The appellant contends that the proposed development would therefore be phosphate neutral and would generate a surplus credit that could be traded to support other residential developments within the catchment area of the Habitat Sites.
34. I acknowledge the points raised above and note that the submitted Unilateral Undertaking ('UU') seeks to link this application to the credits generated under application 20/24/0007, which pertains to a site under separate ownership. Given this ownership distinction, it is highly probable that a separate and specific legal agreement will be required to effectively prevent the implementation of the larger four-bedroom plots previously approved under application 20/06/0038. Without such a targeted legal safeguard in place, there remains a significant risk that the intended arrangement cannot be reliably secured.
35. The second approach to achieving nutrient neutrality involves acquiring phosphate credits through mitigation schemes now operating in Somerset. Although the submitted UU includes a commitment to secure these credits before any development begins, this does not, in itself, demonstrate deliverability.

36. To prevent harm to Habitat Sites and avoid granting a permission that cannot be lawfully implemented, there must be clear evidence of where and how mitigation will be secured. In this instance, no specific scheme has been identified, leaving a significant gap in the information needed to confirm effective mitigation.
37. As the competent authority, I must be satisfied at the point of making my Decision that the proposal will not compromise the integrity of the Habitat Sites. Without confirmation of a defined source for the required credits, the level of scientific certainty demanded by the Regulations is not met.
38. For the above reasons, the proposal would adversely affect the integrity of the Habitat Sites and is therefore in conflict with Policy CP8 of the CS, which says that proposals that will have an adverse impact on Natura 2000 and Ramsar sites and/or features which provide ecological support for their conservation objectives will not be supported. Accordingly, I also find conflict with DMP Policy DM1, which along with other matters seeks to safeguard protected wildlife species and their habitats from harm.

Other Considerations

39. Because the Council is currently unable to demonstrate a 5-year supply of housing land. Therefore, Paragraph 11d) of the Framework is engaged. Irrespective of this, the application of policies in the Framework as far as they protect habitat sites provide a strong reason for refusing the development proposed. This is reiterated by paragraph 195 of the Framework and as such, the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.
40. The proposal is intended to be a Self-Build dwelling, while the Framework supports small sites to come forward for community-led development for housing and self-build and custom-build housing, in the absence of any mechanism being provided to ensure that the proposal is secured as a Self-Build dwelling, I attach limited weight to this.
41. Nevertheless, if the appeal were to succeed the proposal would secure a new dwelling. There would also be jobs created during construction of the development. When complete the new dwelling and its occupiers would support local services and contribute to the economy. As such, there would be some social and economic benefits. The scheme includes new planting and wider biodiversity enhancements. Therefore, there are also likely to be some environmental benefits. However, and although the proposal would support some of the aims of the Framework with regard to these matters, given the small scale of the proposal (1 dwelling). This, and the benefits associated with it attract limited weight.

Planning balance and conclusion

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
43. I have found that the proposal is not in a suitable location for market housing with regard to the development plan. More significantly, I am unable to conclude that the development would not add to the unfavourable phosphate levels within the

Habitat Sites. The harm associated with these matters and conflict with the development plan and similar aims of the Framework, attract substantial weight.

44. Having taken account of the other considerations in support of the proposal to which I attach limited weight, I do not consider these to be sufficiently forceful to outweigh the harm and conflict with the development plan I have identified. Consequently, in the circumstances of this case, the material considerations do not justify a decision other than in accordance with the development plan taken as a whole.
45. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR