



Appeal Decision

Site visit made on 6 November 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2025

Appeal Ref: APP/E3335/W/25/3367935

The Garage, Langley Marsh, Wiveliscombe, Somerset TA4 2UJ

- 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 K Sandford against the decision of Somerset Council.
 - The application Ref is 49/24/0051.
 - The development proposed is the construction of two new dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is for outline planning permission with all matters reserved. I have dealt with the appeal accordingly. Whilst layout is a matter to be reserved for later determination, the application includes Block Plan ref 00524-24-02 which shows a proposed layout for the appeal scheme. This drawing is not marked 'indicative only' and I have treated the details therein as a guide as to how the site might be developed.

Main Issues

3. The main issues are:
 - Whether the appeal site is a suitable location for market housing development, having regard to its accessibility to facilities and services and the spatial strategy for the area;
 - The effect of the proposal on the living conditions of the occupiers of the neighbouring property at Hillside House and the future occupiers of the appeal scheme, with particular regard to privacy and outlook impacts; and
 - The effect of the proposal upon the Somerset Levels and Moors Ramsar, with particular regard to phosphates impacts.

Reasons

Location

4. Policy SP1 of the *Taunton Deane Borough Council Adopted Core Strategy 2011-2028* (September 2012) (CS) describes the general principles and spatial strategy for new development within the Borough, which aim to direct new development to the most accessible and sustainable locations. As such, the Taunton urban area is

the strategic focus for growth, with the market town of Wellington providing a secondary focus.

5. Policy SP1 also identifies Major and Minor Rural Centres and a number of villages as settlements where new development, including residential, of an appropriate scale to the settlement size, is permitted within the defined settlement boundaries.
6. Policy SB1 of the *Taunton Deane adopted Site Allocations and Development Management Plan* (2016) (DMP) reinforces a sustainable approach to development, stating that proposals outside of the boundaries of settlements identified in CS Policy SP1 will be considered as being within open countryside.
7. Langley Marsh is not included within the list of identified settlements, so whilst the site lies within a village setting and is surrounded by residential development, it is treated as being within open countryside for development plan policy purposes.
8. Accordingly, DMP Policy SB1 requires the proposal to be assessed against CS Policies CP1, CP8 and DM2 unless it accords with a specific development plan policy or proposal or is necessary to meet a requirement of environmental or other legislation. There is no evidence before me that these criteria apply in the case of the appeal scheme.
9. CS Policy CP8 aims to establish a clear and consistent approach to the protection and enhancement of the natural and historic environment. As such, it is not directly relevant to this main issue.
10. 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, although this policy does not specifically exclude residential development, it does not offer specific support for the proposal.
11. Policy CP1 of the CS requires development proposals to contribute to a sustainable environment and, amongst other objectives, minimise the need to travel through strategic locational choices. This approach is further supported by CS Policy CP6 which states that development should contribute to reducing the need to travel and improve accessibility to jobs, services and community facilities.
12. Also, having regard to the accessibility of development, Policy A5 of the DMP requires residential development to be situated within walking distance of, or have access by public transport to, essential community facilities, including employment, retail, education, health and leisure. Defined acceptable walking distances include up to 400 metres to bus stops and up to 800 metres to local shops.
13. The Council has also referred to the *Placemaking Principles for Somerset* (August 2024) document which the Council has adopted following public consultation to provide support for the preparation of masterplans and for development management purposes including providing pre-application advice and assessing planning applications. This confirms the importance of locating development where it reduces the need to travel via the private car and promotes alternative active and sustainable modes of transport.
14. Policies SP1 of the CS and SB1 of the DMP appear more restrictive than the Framework, particularly in relation to development outside defined settlements. However, when all of the above policies are taken together, they form the area's

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 accord with an overarching objective of the *National Planning Policy Framework 2024* (the Framework) of fostering sustainable, inclusive, and well-integrated communities.

15. Langley Marsh is predominantly a residential village. It does not include the essential day-to-day community facilities and services listed within Policy A5 of the DMP, the nearest of which are located at Wiveliscombe which is approximately 1.5km from the appeal site. This distance notably exceeds the 800m which is generally considered to comprise a reasonable walking distance to local facilities and services. Moreover, there is no footpath linking Langley Marsh with Wiveliscombe, rendering walking as a mode of accessing day-to-day conveniences even less likely, particularly during inclement weather and hours of darkness.
16. I have not been provided with details of public transport connections between Langley Marsh and other larger settlements, but the Council has stated that public transport is limited, and this has not been disputed by the appellant. Based on my observations during my site visit, I have no reason to disagree. As such, based upon the evidence before me, future occupiers of the appeal scheme would be heavily dependent upon the private car as a means of transport to even the most basic services and facilities. This undermines the local and national planning policy aims to reduce reliance on private vehicles.
17. For the above reasons, I therefore conclude that the appeal site is not a suitable location for market housing development, having regard to its accessibility to facilities and services and the spatial strategy for the area.

Living conditions - privacy and outlook

18. The neighbouring property at Hillside House is sited immediately adjacent to one of the side boundaries of the appeal site and presents a significant length of building alongside the appeal site. This comprises a central two-storey element with single storey projections either side when viewed from the appeal site. Moreover, there are a number of windows at both ground and first floor level which directly face the site.
19. These include clear-glazed ground floor living room and dining room/kitchen windows and first floor bedroom windows, some of which are opening with casements that open over the appeal site. Given the existing absence of boundary fencing along this side of the appeal site, these windows directly overlook the appeal site both at ground and first floor level.
20. The appellant has applied for outline permission with all matters reserved and, as such, the layout of the development is not for determination under this appeal. However, the aforesaid circumstances in respect of the adjacent property and its juxtaposition in relation to the appeal site are such that the building presents a realistic prospect of harming the living conditions of occupiers of the new residential properties as a result of close proximity and direct overlooking of new private outdoor garden/patio space to the rear of the new dwellings and/or to rooms within the new houses.

21. Moreover, the resulting proximity of a full 2-storey wall with pitched roof over immediately alongside the proposed residential site would also realistically give rise to harmful impacts upon the outlook experienced by future occupiers of the new development.
22. In addition, based on the information before me, I am not persuaded that the appeal scheme could be designed and positioned in such a way that would avoid harming the privacy of the occupiers of Hillside House having regard to overlooking from the new dwellings, or, if the new houses were to be sited alongside the neighbouring property and/or boundary fencing erected, through harm to the outlook from the rooms in the neighbouring property which are served by the clear glazed side windows. In this respect, it is significant that some windows serve the ground floor living and kitchen/dining room which would reasonably be expected to be well-used on a day-to-day basis by the residents of that property.
23. My concerns in respect of the above are augmented by the appeal site ground levels that I saw during my site visit, with the ground rising towards the rear of the site and away from the boundary with Hillside House. Accordingly, in the absence of any land levelling proposals, the ground level of the new built development could potentially be higher than that of Hillside House, thereby exacerbating the outlook impact.
24. The appellant refers to higher density developments existing throughout the country on larger residential sites with close neighbour to neighbour window distances. No specific examples have been provided by the appellant. It is not unreasonable for some overlooking of rear gardens to occur in higher density urban built-up areas, including, for example, where a more comprehensive scheme of development is proposed from the outset. However, this differs significantly from the appeal site scheme which introduces new development into a long-standing existing residential built environment where existing neighbour living conditions have been long-established. As such, this is not a reason to allow the appeal scheme.
25. For the above reasons, I therefore conclude that, taking account of the proximity orientation and fenestration design of the neighbouring property at Hillside House, together with the constrained size of the appeal site, it has not been satisfactorily demonstrated that the appeal scheme would not materially harm the living conditions of the occupiers of the neighbouring property at Hillside House and the future occupiers of the appeal scheme, with particular regard to privacy and outlook impacts. As such, the appeal scheme is contrary to CS Policy DM1 and DMP Policy D7 in so much as these policies seek to ensure that new development does not harm the residential living conditions of individual dwellings or any users of the development.
26. This accords with paragraph 135 of the Framework in so much that it seeks to ensure that developments will function well with a high standard of amenity for existing and future users.

Habitats site

27. The appeal site lies within the catchment for the Somerset Levels and Moors Ramsar. This is an internationally important habitat site, designated because of its

extensive lowland wet grasslands and wetlands that attract internationally important numbers of wildfowl, aquatic invertebrates and breeding waders.

28. Unacceptable levels of phosphates have entered the Ramsar site, and the resultant eutrophication has put its interest features in an unfavourable condition. As such, new residential development is required to demonstrate that it is nutrient neutral to ensure that additional nutrients do not enter the Ramsar.
29. The Council's third reason for refusal relates to the appellant's failure to provide a Nutrient Neutrality and Mitigation Scheme (NNMS) or provide a Habitats Regulations Assessment (HRA) to demonstrate that the proposal would not result in an increase in phosphate discharge to the Ramsar site.
30. In the context of this appeal, the responsibility for assessing the effects of the proposal on the internationally important habitats site falls to me as the competent authority. Notwithstanding the above, were I minded to allow the appeal, I would need to carry out an Appropriate Assessment (AA) before considering this matter, since the proposal would be likely to have a significant effect on the Ramsar site.
31. However, as the first two main issues provide clear reasons for dismissing the appeal, I have not had cause to pursue undertaking an AA. As such, I do not need to consider this matter further, since any findings on this issue would not change the appeal outcome.

Other Matters

32. The appellant has referred to a lack of communication by the Council during the determination of the planning application. I have noted the appellant's frustrations in this respect. However, the Council's processes are not a matter for consideration as part of this appeal, which I have determined on the merits of the proposal before me.
33. The appellant also cites a lack of objection to the proposal from Statutory Consultees and the Town Council. This is noted, but it does not alter my conclusions in respect of the first two main issues.

Planning Balance

34. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework, and that the Council's supply stands at 3.95 years of deliverable housing land.
35. As such, paragraph 11 d) of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date. Paragraph 11d) states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a strong reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.
36. Paragraph 8 of the Framework defines the three dimensions of sustainable

development as performing economic, social and environmental objectives. In terms of social benefits, the two dwellings would make a modest contribution towards the Council's housing supply. Moreover, the houses could be built out relatively quickly, having regard to paragraph 73 of the Framework.

37. There would be economic benefits as a result of the construction of the dwellings, including employment and supply chain support, and economic and social benefits as a result of their future occupation, including support for facilities, services and businesses. These considerations weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed housing development.
38. The appellant states that the site is an appropriate location for a self-build and custom housebuilding development, citing a lack of Council policies in respect of this form of housing. Whilst there is positive support for the provision of such units in national policy, I have not been presented with cogent evidence that the proposal specifically relates to this form of housing, nor that there is an identified need within the Council area. There is no legal agreement or other mechanism before me to secure the delivery of the proposal as self-build units. Accordingly, I am unable to attach any weight to this potential benefit.
39. The Council has raised no objection to the appeal scheme in respect of matters including parking and highway safety, flood risk and heritage. In terms of the planning balance, a lack of identified harms is a neutral factor.
40. Moreover, whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified.
41. Weighed against the benefits of the proposal, the location of the appeal site would not provide a suitable site for housing development, and the proposal would not give a genuine choice for future occupiers to travel to facilities and services other than by the private car. As such, the proposal would seriously undermine the Council's spatial strategy, which aligns with that of the Framework, and the social and environmental objectives of sustainable development in respect of accessible services and moving to a low carbon economy would not be met.
42. In addition, for the reasons set out above, the appeal scheme would have a harmful effect upon the living conditions of neighbouring residents and future occupiers of the appeal scheme. This would conflict with the social objective of the Framework of achieving well-designed places in which developments create places with a high standard of amenity for existing and future users.
43. Accordingly, having carefully considered the balance of factors, notwithstanding whether footnote 7 to paragraph 11 of the Framework applies with respect to habitats sites, I consider that, when assessed against the policies in the Framework taken as a whole, the significant harms that would arise from the proposal in respect of the accessibility of the site to facilities and services and harm to living conditions would significantly and demonstrably outweigh the benefits.
44. Therefore, the proposal would not be a sustainable form of development. The

conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

45. For the reasons given above, I therefore conclude that the appeal should be dismissed.

S Leonard

INSPECTOR