



Appeal Decision

Site visit made on 13 November 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 January 2026

Appeal Ref: APP/E3335/W/25/3365088

Land Adjacent Foxes Run, Bridgwater Buildings, Castle Cary, Somerset BA7 7JU

- 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 under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Abri Group Ltd against Somerset Council.
 - The application Ref is 24/01656/S73.
 - The application sought planning permission for the erection of 27No. dwellings with associated access, roads, footways, parking, drainage and landscaping, without complying with conditions attached to planning permission Ref 16/03447/FUL, dated 26 April 2019.
 - The conditions in dispute are No's 6 and 16 which state that: (No. 6) No development shall commence unless a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved CEMP. The CEMP shall include: Construction vehicle movements; Construction operation hours; Construction vehicular routes to and from site; Construction delivery hours; Expected number of construction vehicles per day; Car parking for contractors; Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice; A scheme to encourage the use of public transport amongst contractors; Measures to avoid traffic congestion impacting upon the Strategic Road Network; For the access road culvert and associated structures and stream bank engineering, details of its design that ensures continued passage by badgers is made possible following completion of works, including the temporary site access arrangements to ensure suitable alternative badger passage routes remain available at all times; A monitoring schedule during the work phases shall be carried out by a suitably qualified badger professional; Measures for the treatment of Japanese Knotweed on the site; Measures relating to construction noise and vibration and (No. 16) Prior to commencement of the development hereby approved, a highways agreement shall be entered into with the highway authority in connection with the vehicular access to the site and related highway works as shown on drawing number A094668-SK14 Rev G to include the requirement for the making and funding of any associated Traffic Regulation Orders.
 - The reasons given for the conditions are: (No. 6) in the interests of the living conditions of surrounding occupiers and the protection of badgers and to secure treatment of Japanese knotweed on the site; and (No. 16) to ensure that a highways agreement is entered into with the highway authority in relation to the vehicular access to the site and related highway works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 27No. dwellings with associated access, roads, footways, parking, drainage and landscaping at Land Adjacent Foxes Run, Bridgwater Buildings, Castle Cary, Somerset BA7 7JU in accordance with the application Ref 24/01656/S73, without compliance with condition numbers 6 and 16 previously imposed on planning permission Ref 16/03447/FUL, dated 26 April 2019, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the amended CEMP, and the removal of the need to agree a Traffic Regulation Order (TRO), on living conditions and highway safety.

Reasons

3. The evidence before me confirms that a CEMP was previously agreed by the Council as a result of a previous application to discharge condition 6¹. As part of this appeal, the appellant has provided an updated CEMP. The only change proposed is that, in the early stages of the development, some construction traffic will have to access the site via Mill Lane, rather than via Brookfields.
4. It is clear that, at present, vehicles are able to use Mill Lane to access the properties along it, including service vehicles such as refuse lorries. While allowing larger vehicles to utilise the lane during the construction phase is likely to be inconvenient to residents for a temporary period, such disturbance is not unusual when development takes place. Indeed, there is no substantive evidence before me that would lead me to conclude that the effect of the amended CEMP would result in an unacceptable level of harm in terms of general noise or disruption. As such, I can see no reason to not accept the presented CEMP. It is also notable that the Council does not disagree with this conclusion.
5. The appointed Inspector in the previously allowed appeal² felt it necessary at the time to require the preparation and agreement of a TRO. As noted within paragraph 8 of that decision, the intended effect of the TRO would be to prevent residential traffic from utilising Mill Lane to enter or exit the site, and to prevent vehicles from parking at the junction with Brookfields. However, as part of this appeal process, new evidence has been provided.
6. In particular, the Highway Authority has set out that the 27 proposed dwellings would generate between 12 – 15 vehicular journeys in the peak hour which would translate to one movement every four to five minutes on average. Furthermore, the Highway Authority has also confirmed that Mill Lane itself would only be subject to an additional 3 – 4 movements in the peak hour, or one every fifteen to twenty minutes on average. Moreover, follow up comments from the Highway Authority, on 22 May 2025, refer to transport evidence provided by the appellant as part of the original application.
7. Given the totality of this information, I must conclude that the additional vehicular movements arising from the proposed development would be relatively minor and any increase in delays to journey times would certainly not meet the definition of 'severe' as set out within paragraph 116 of the National Planning Policy Framework (the Framework). Any impact on the living conditions of existing residents would also be minor in nature. Furthermore, while I acknowledge that Mill Lane is fairly narrow and has no pavement, I am satisfied that the envisaged increase in vehicular movements along the lane would not be sufficient so as to be unacceptable in highway safety terms.
8. The evidence before me also suggests that the junction of Mill Lane and Brookfields could be designed in such a way so as to discourage the use of the lane, while also preventing parked cars from presenting a hazard or blockage.

¹ Council ref: 22/00443/DOC1

² Appeal ref: APP/R3325/W/17/3185861

9. The Council, including in its role as Highway Authority, has not objected to this appeal being allowed. As a result, and taking account of all the evidence before me, I am satisfied that the updated CEMP, and the removal of the need to agree a TRO, would accord with the relevant aspects of the Framework which seek to ensure that living conditions for existing residents are not unduly harmed, and that proposals are acceptable in relation to highway safety.

Other Matters

10. A large number of third parties have objected to this appeal. I have carefully considered all of the comments made. Some refer to the principle of development and other matters which fall outside of the scope of this appeal. I note that evidence has been provided by the main parties which confirms that the proposal has already been lawfully implemented and therefore that the permission remains extant. Concern has been raised about the removal of parking along Mill Lane, however the proposals do not propose such a solution.
11. There is no substantive evidence before me to suggest that the proposed culvert over a stream at the access to the site would be unsuitable or that it could not be delivered due to land ownership issues. Matters relating to the potential to access the site via Remalard Court were considered by the Inspector in the previous appeal and I have no reason to disagree with the conclusions reached on that issue. Access for emergency vehicles would be sufficient given that Mill Lane can already be utilised for such purposes.
12. The appeal site is adjacent to part of the Castle Cary and Ansford Conservation Area. Its significance is related to the development of the settlement over many years and the architectural tastes of the time. The effect of the amended CEMP and the removal of the need to prepare a TRO would not impact negatively upon the significance of the Conservation Area.

Conditions

13. The Council has provided a suggested list of conditions which reflect the current situation, including taking account of previously discharged conditions. I note that the appellant has confirmed that they are satisfied with the suggested conditions. I have modified the suggested condition which refers to the CEMP to ensure that it refers to the updated document. Condition 16, which required the TRO, has been removed.

Conclusion

14. For the reasons given the appeal is allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission shall have effect from the commencement of the development hereby approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
0581-200; 0581-201; 0590-202; 0590-203; 0590-204; 0590-205; 0590-206; 0590-207; 0590-208; 0590-209; 0590-210; 0590-302; 0590-302A Rev B; 0590-101 Rev A; 0590-101-1; 0590-102 Rev B; 0590-103; 0590-104 Rev A; 0590-105 Rev B; 0590-106; 0590-107 Rev A; 0590-108 Rev A; 0590-109; 0590-110 Rev A; 0590-111 Rev A; 0590-112 Rev A; 0590-113 Rev A; A094668-SPA02 Rev A; 267.16.PP01 Rev B; 267.16.PP02 Rev B; 267.16LD.01 Rev D; D14 296 03 P3 Rev A; SD 02 Rev P4; A094668-SK14 Rev G; A094668-SK15 Rev G.
- 3) The development shall be implemented in accordance with the wildlife protection measures and licencing requirements as detailed in section 4.1 ('Mitigation compensation and enhancement during construction') of the Ecological Impact Assessment (EAD ecology, July 2016).
- 4) Prior to first occupation of the development hereby permitted, the badger route works shall be signed off upon completion to the effect that works undertaken are fit for purpose by an ecological consultant.
- 5) A condition survey of the existing public highway shall be carried out and agreed in writing by the Local Planning Authority in conjunction with the Highway Authority prior to any works commencing on site. Any damage to the highway occurring as a result of the development shall be remedied by the developer to the satisfaction of the highway authority once all works have been completed on site.
- 6) The development works shall be carried out strictly in accordance with the Construction Environmental Management Plan (CEMP) provided in Ridge and Partners Written Representations at Appendix 24 approved by the Planning Inspectorate under appeal reference APP/E3335/W/25/3365088.
- 7) The proposed highway boundary treatments, estate roads, footways, footpaths, tactile paving, cycleways, verges, junctions, street lighting, sewers, drains, retaining walls (including hand rails to culverts), service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle, and cycle parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating as appropriate the design layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
- 8) The proposed roads including footpaths and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.
- 9) The development hereby permitted shall not be brought into use until that part of the service road that provides access to it has been constructed in accordance with the approved plans.

- 10) The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.
- 11) None of the dwellings hereby permitted shall be occupied until a scheme of street lighting has been installed in accordance with a design and specification to be approved in writing by the local planning authority.
- 12) The development shall be carried out strictly in accordance with the drainage details approved by the local planning authority on 12th May 2023 under application reference 22/00443/DOC1.
- 13) Prior to commencement of the development, site vegetative clearance, demolition of existing structures, groundworks, heavy machinery entering site or the on-site storage of materials, the submitted scheme of tree and hedgerow protection measures as detailed within the submitted Arboricultural Consultants report and Tree Protection Plan (Plan ref: D 14 296 03 P3 Rev A as prepared by JP associates) specifically the fencing and signage requirements, shall be installed and made ready for inspection. A site meeting between the appointed building groundwork contractors and the Local Planning Authority's Tree Officer shall then be arranged at a mutually convenient time. The locations and suitability of the tree protection measures shall be inspected by the Tree Officer and confirmed in writing by the Local Planning Authority to be satisfactory prior to commencement of the development. The approved tree protection requirements shall be implemented in their entirety for the duration of the construction of the development and the protective fencing and signage shall only be moved or dismantled with the prior consent of the local planning authority in writing.
- 14) All planting and landscaping measures as comprised in the approved landscaping details prepared by Reckless Orchard Landscape Consultants (plan Refs: 267.16.PP01 Rev B & 267.16.PP02 Rev B) shall be carried out within the next planting season following the first occupation or the completion of the development whichever is the sooner; and if any trees or shrubs which within a period of 10 years from the completion of the development die, are removed or in the opinion of the Local Planning Authority become seriously damaged or diseased they shall be replaced in the next planting season with trees shrubs of the same approved specification.
- 15) Prior to commencement of the development hereby approved the detailed design and future maintenance regime of the pedestrian cycle link via Remalard Court shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the first occupation of the development and thereafter retained and maintained in accordance with the approved maintenance regime.
- 16) Prior to first occupation all residential dwellings hereby approved shall be provided with access to a 16-amp electric vehicle charging point.