



Appeal Decision

Site visit made on 14 January 2026

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/D0121/W/25/3374985

7 North Lane, Nailsea, North Somerset BS48 4BT

- 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 Jeremy Peters against the decision of North Somerset Council.
 - The application Ref is 24/P/1937/FUL.
 - The development proposed is the demolition of an existing garage/outbuilding and the erection of one residential dwelling (C3) with associated access and garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the Council are in the process of preparing a new Local Plan, no policies therein have been presented as relevant to this appeal. Therefore, I have determined this appeal in accordance with the extant development plan.

Main Issues

3. The main issues are the effect of the proposal on:
 - public safety in respect to ground stability;
 - flood risk, including whether the proposal would be safe for its lifetime and would not increase flood risk elsewhere;
 - the character and appearance of the area;
 - the safety of users of North Lane, with particular reference to the location and number of car parking spaces;
 - the living conditions of existing occupiers of the host property, and whether future occupiers of the proposed dwelling would be provided with adequate living conditions, with specific regard to the quantum and functionality of outdoor space; and
 - ecology and biodiversity.

Reasons

Public safety

4. The appeal site is located within The Coal Authority's defined Development High Risk Area as mining features have been identified within the physical influence of the site. Development on the site could, therefore, trigger ground collapse and/or subsidence; events which could have significant implications on the safety of those working on the site, living nearby or travelling along this part of North Lane.

5. Although the Residential Official Coal Mining Report¹ submitted with the application indicates that ground movement in the immediate future is unlikely due to the age of the workings and local geological conditions, where proposals include developing the site, it does highlight that a full Coal Mining Risk Assessment (CMRA) may be required. In this case, no such assessment is before me.
6. Therefore, in the absence of an appropriately authored CMRA, the risks associated with construction works and the introduction of additional development on the site cannot be quantified, nor can measures to prevent and/or mitigate potential hazards be identified and implemented. Due to the resultant uncertainty regarding the likelihood of a hazardous event from demolition and construction works, as well as during the occupation of the proposed dwelling, the deliverability of the proposal on the site cannot be established. Nor is it certain that this could be adequately resolved through the use of a pre-commencement condition requiring the preparation of a CMRA, were I to allow this appeal.
7. I conclude that the proposal would result in harm to public safety, in respect to ground stability, contrary to Policy CS3 of the North Somerset Core Strategy (Core Strategy) insofar as it relates to public safety. It also conflicts with the need to prevent development from contributing to unacceptable risk, including as a result of land instability set out in the National Planning Policy Framework (Framework) and the associated importance placed on this consideration within the Planning Practice Guidance (PPG)².

Flood risk

8. Although the appeal site is located within Flood Zone 1 on the Environment Agency's flood maps, the Council's Strategic Flood Risk Assessment (SFRA) indicates that part of the site is predicted to be within the Tidal Flood Zone 3a (undefended), including an allowance for climate change, by 2125. In these circumstances, the Framework's precautionary approach triggers the need for a Sequential Test to be undertaken, unless a site-specific flood risk assessment (FRA) demonstrates that no development would be located on an area that would be at risk of flooding, now or in the future. This position was not demonstrated within the submitted site-specific FRA³. Nor does the FRA include a Sequential Test that shows there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, in accordance with the methodology set out in Policy CS3 of the Core Strategy.
9. Therefore, insufficient evidence to demonstrate that the site is acceptable in terms of flood risk has been provided, despite the FRA's conclusion that, due to the existing tidal defences and subsequent upgrades to them, the risk associated with a breach is greatly reduced. While raising the height of the proposed new dwelling has been suggested by the appellant, this is not the scheme before me, or the proposal which the statutory consultees commented on and the subject of the Council's decision. In any event, even if raising the ground level of the new property would safeguard it from flooding, other parts of the site would remain at risk, including the means of access.

¹ Ref: TFC20230310075122TE-BS484BT, dated 10 March 2023

² Paragraph: 001 Reference ID: 45-001-20190722

³ Ref: 3M-416; prepared by Three Magnets Planning; dated 18 November 2024

10. Although extensions to a number of nearby dwellings, also located within areas at risk from future flooding, have recently been approved by the Council, such minor development is exempt from the Sequential Test. Site-specific FRAs would, nonetheless, have been required as part of any such planning applications. Larger development proposals, including sites currently being considered for allocation within the emerging Local Plan, would also require an FRA and a Sequential Test to demonstrate that the proposed dwellings would be safe from flooding.
11. In accordance with the PPG, conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating any adverse effects⁴. They should also meet the Framework's six tests, the first of which being that they should be necessary to make the development acceptable. In this case, it has not been demonstrated by the FRA that the proposal would be safe from flooding for its lifetime, nor can a positive outcome of a revised assessment be guaranteed. Therefore, a pre-commencement condition is not the appropriate mechanism to secure factors which assist in establishing the acceptability of the proposed dwelling on the site.
12. Likewise, as a Sequential Test is intended to establish whether the principle of development in a particular location is acceptable in terms of flood risk, the use of a condition is not an appropriate mechanism to secure such an assessment as its outcome is unclear. Furthermore, a condition requiring the resubmission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity⁵. Indeed, insufficient evidence contained within an FRA is sufficient on its own to lead to a dismissal of an appeal.
13. Consequently, I conclude that it has not been demonstrated that the proposal would be safe from flooding for its full lifetime and would not increase flood risk elsewhere. The proposal is, therefore, contrary to the approach to sites at risk of flooding, as set out within Policy CS3 of the Core Strategy. This reflects the provisions of the Framework and the associated PPG in respect to the circumstances where a Sequential Test is required.

Character and appearance

14. The appeal property comprises a two-storey detached dwelling; one half constructed with different eaves and ridge heights than the other side. Combined with its wide façade and angled relationship to North Lane, the property has a cottage-like aesthetic and individual character which contrasts with the repetitive semi-detached forms in the surrounding area, including elsewhere along the lane.
15. The proposal would introduce a new, detached dwelling adjacent to the host property, replacing the existing utilitarian, flat-roofed triple garage. Being two-storeys, the proposed dwelling would, therefore, introduce a substantially taller and bulkier form than the existing structure. Its front building line, being sited closer to North Lane than the garage, would also make the new dwelling more prominent within the street scene. Its position and height would also have an overcrowding effect on the host property and the main front garden area, particularly given the need to provide on-site parking for the existing dwelling, despite the new dwelling's siting on lower lying ground. This would result in a cramped built form arrangement that would be detrimental to the character and appearance of the area.

⁴ Paragraph: 001 Reference ID: 21a-001-20140306

⁵ Paragraph: 006 Reference ID: 21a-006-20140306

16. On this basis, I conclude that the proposal would harm the character and appearance of the area, contrary to policy CS12 and CS31 of the Core Strategy and policies DM32 and DM37 of the Development Management Policies: Sites and Policies Plan Part 1 (DMP). In combination, these policies require new development to achieve a high standard of design which takes into account the local character and distinctiveness of the area.

Parking and Users of North Lane

17. In accordance with the Council's Parking Standards Supplementary Planning Document (Parking SPD), the minimum parking standard per dwelling with two or three bedrooms is two spaces. A single parking space for the host dwelling is proposed in the corner of the site closest to the boundary with 6A North Lane while two spaces are provided at the front of the proposed dwelling, on the existing garage's forecourt. This area is currently used by the existing occupiers of the host dwelling to park their vehicles. Therefore, whilst the minimum parking standard for the proposed dwelling would be met on site, this would not be the case for the host property.
18. Given the level changes between the appeal site and the lane, and between the host dwelling and its garage area, accommodating a further parking space without harming local character or the living conditions of existing occupiers through a detrimental reduction in outdoor space would be challenging. Even if there is a willingness from the appellant to consider a further space within an alternative layout, no such plan is before me.
19. Notwithstanding the quantum of parking provided, the siting of the proposed parking space for the host dwelling creates a tight turning angle for drivers to navigate when entering or exiting, either in a forward or reverse gear. The change of levels between the lane and the garden, as well as the boundary walls which enclose the lane's narrow width exacerbates this manoeuvre. This could lead to conflict with other users of the lane, including those travelling along the public right of way. As limited on-street parking is available along nearby roads, drivers may attempt to park in illegal and/or hazardous locations which, in turn, could prejudice the safety of road and pavement users.
20. Notwithstanding the appellants view that construction traffic would be able to safely enter the site, I conclude that the proposal would harm the safety of users of North Lane, with particular reference to the location and number of car parking spaces provided, contrary to Policy CS11 of the Core Strategy and policies DM28 and DM37 of the DMP. These policies seek to maximise the amount of off-street parking provision, whilst also taking into account functionality and safety of users of the highway.

Living conditions

21. The proposed dwelling would be sited closer to the wall alongside North Lane than the existing garage, and away from the rear boundary with Ashmead. The resultant outdoor space provided would comprise a small area at the front which would also accommodate the proposed dwelling's waste and recycling bins. The rear garden area is as wide as the proposed dwelling but narrow, indicated to be 3.45 metres deep. Due to its shape and area, the functionality of the rear external space would be limited and significantly below the standard that residents of a three-bedroom home would reasonably expect to be provided.

22. The application plans show much of the existing garden area of the host dwelling retained, with a single parking space located to the side of the existing building. As highlighted above, this provision does not meet the required amount of parking and, given my concerns relating to the site's topographical relationship with the lane, even if the required number of spaces could be accommodated on the site, the amount of outdoor space associated with the host dwelling would be reduced. In the absence of a plan showing the required parking spaces, it has not been demonstrated that this could be achieved without detriment to the living conditions of occupiers of the host property.
23. Consequently, I conclude that the proposal would harm the living conditions of the existing occupiers of the host property and future occupiers of the proposed dwelling would not be provided with adequate living conditions, with specific regard to the quantum and functionality of outdoor space. As such, the proposal is contrary to policies DM32 and DM37 of the DMP which seek to ensure the design and layout of residential proposals do not prejudice the retention of existing private outdoor space whilst providing appropriately sized spaces for new development.

Ecology and biodiversity

24. The Ecological Checklist⁶ submitted with the planning application indicated that there were no watercourses within 10 metres of the site and therefore that the requirement for ecological surveys was not triggered. However, as set out in the Council's Delegated Report and as I observed during my site visit, Parish Brook runs along 8 North Lane's fence and hedge which defines the boundary with the garden area associated with Ashmead. Although culverted near to the site boundary, nonetheless, its proximity to the site triggers the need for further ecological investigations.
25. As part of the appeal, the appellant has submitted an interim Draft Preliminary Ecological Assessment⁷ (PEA) and a Biodiversity Net Gain Plan⁸ (BNG Plan). These were not before the Council when it determined the application, despite both dating from July 2024. While the Council have provided some comments on the contents of these documents, they are both in draft form, incomplete and, in the case of the PEA, contain comments from the author or a reviewer. The PEA also states that the validity of the report expires on 27 July 2025. Given this, the veracity of this report is unclear.
26. Additionally, the BNG Plan indicates that the required 10% net gain in biodiversity would not be achieved within the proposal and that biodiversity offsetting is likely to be required. However, where and how this would be provided is undefined, although I would have considered the use of a pre-commencement condition requiring a BNG Plan to be submitted to the Council for approval, were I minded to allow this appeal.
27. The use of a similar pre-commencement condition requiring a PEA to be submitted to and approved by the Council is applicable only in exceptional circumstances as it may recommend the need for further ecological surveys relating to protected species to be undertaken. In most circumstances where a proposal would have an

⁶ Dated 13 September 2024

⁷ Ref: LUS24091 PEA; prepared by Luscinia Ecology; dated 11 July 2024

⁸ Ref: LUS24091 BS&BGP; prepared by Luscinia Ecology; dated 27 July 2024

effect on a protected species, this is a consideration which should be taken into account when determining a planning application.

28. I conclude that the proposal would have a harmful effect on ecology and biodiversity, contrary to Policy CS4 of the Core Strategy and Policy DM8 of the DMP, insofar as they seek to conserve and, where appropriate, enhance the local natural environment. It also conflicts with the Framework and PPG which states that proposals should contribute to or enhance the natural environment by minimising impacts on and providing net gains for biodiversity, including by incorporating features which support priority or threatened species.

Other Considerations

29. Social and economic benefits would be derived from the construction and occupation of the proposed dwelling, assisting the Government's approach to boosting the supply of housing. However, as the proposal would result in a net gain of a single home and, despite the Framework's recognition that small and medium size sites can be built out quickly, thereby making a rapid positive contribution to the local housing supply, the resultant benefits would be small. Similarly, any environmental benefits from the installation of an air source heat pump and measures to generate 10% of the energy required by the residential use of the development would also be small.
30. The Council is unable to demonstrate a five-year supply of deliverable housing sites, in accordance with the Framework. I am aware from another appeal within North Somerset that the latest published position is 2.79 years (September 2025), representing a substantial shortfall. In such circumstances, paragraph 11di of the Framework states that permission for residential proposals should be granted unless the policies therein that protect areas or assets of particular importance, including areas at risk of flooding, provide a strong reason for refusing it⁹.
31. Given the site's location within an area at risk of flooding and my conclusions that the proposal would not be safe from flooding for its lifetime, I conclude that this provides a strong reason for refusing this development and dismissing this appeal. Consequently, the presumption in favour of sustainable development, as set out at paragraph 11dii of the Framework, does not apply in this case.
32. The site lies within the North Somerset and Mendip Bats Special Area of Conservation (the SAC), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017. Bats are species protected under Part 1, Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposal upon the SAC, in accordance with these regulations. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider this matter further as this would not alter the outcome of the appeal.

Conclusion

33. I conclude that the proposal is contrary to the development plan as a whole and material considerations, including the provisions of the Framework, do not indicate that the proposal should be determined other than in accordance with it.

⁹ Footnote 7

34. For the reasons set out above, having had regard to all relevant matters raised, I conclude that the appeal should be dismissed.

Juliet Rogers

INSPECTOR