
Appeal Decision

Site visit made on 3 March 2026

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2026

Appeal Ref: APP/W3330/W/25/3375821

39 The Flat, East Street, Taunton, Somerset TA1 3LS

- 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 Turgay Sahin against the decision of Somerset Council.
 - The application Ref is 38/24/0150.
 - The development proposed is described as creating 4 flats from the residential part of the building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the name of the appellant cited on the appeal form, it has subsequently been established that the appellant is Mr Turgay Sahin.
3. The correct approach to ascertain whether an existing use is lawful is to make an application under section 191 of the Act for a certificate of lawful use or development. That being the case, and within the context of an appeal under section 78 of the Town and Country Planning Act 1990 - as amended (the Act), it is not within my remit to formally determine the lawfulness of the existing use of parts of the appeal site for residential purposes, or to establish how many residential units lawfully exist within it.
4. Nevertheless, and even if 2 residential units lawfully exist within the appeal site, the implementation of the appeal scheme would increase the number of residential units by 2. That being the case, this appeal is dealt with on the basis that the proposed development would result in the formation of at least 2 additional residential units within the building.
5. The Council has confirmed that the appeal site is not within a Conservation Area, and I proceed on that basis. The building at 39 East Street is Grade II listed¹ (the Listed Building), and it is close to the Grade II listed buildings at 1-3 East Gate, 41 and 42, East Street² and 40 & 40A East Street³, as well as the Grade I Listed building at Nos. 1-10 Grays Alms Houses⁴. Consequently, in reaching my decision, I have exercised my statutory duties under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 – as amended.

¹ Official list entry number: 1232323

² Official list entry number: 1060056

³ Official list entry number: 1060055

⁴ Official list entry number: 1232341

6. There is an extant listed building consent for the conversion of the first and second floors at 39 East Street into 4 No. self contained flats – ref: 38/23/0138/LB, and I have been provided with copies of the plans associated with this consent. However, there are some discrepancies between the scheme subject of this appeal and the scheme subject of the listed building consent. As such, and if the implementation of the appeal scheme were to require any works for the demolition of the Listed Building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, which are not already authorised by the extant listed building consent, then these works would need separate authorisation - which may or may not be forthcoming, under the listed building consent regime.

Main Issue

7. The main issue is the effect of the development on the integrity of the Somerset Levels and Moors Ramsar site.

Reasons

8. The National Planning Policy Framework (the Framework) states that Ramsar sites should be given the same protection as habitat sites⁵.
9. The appeal site is within the hydrological catchment of the Somerset Levels and Moors Ramsar site (the protected site). It is understood that the Ramsar site is an unfavourable condition resulting from eutrophication caused by excessive phosphates. Moreover, increased phosphate loading to the Ramsar Site via waste waters from additional residential units within its catchment provides a potential pathway for adverse effects on the integrity of this protected site. Consequently, and given that I must adopt a precautionary approach, it is credible that, without mitigation, the delivery of the proposed additional residential units on the appeal site would give rise to a likely significant effect on the internationally important features of the Ramsar Site. This is both alone and in combination with other developments and sites within the hydrological catchment of this protected site.
10. Therefore, and having regard to the other circumstances of this case, an Appropriate Assessment should be carried out. I have sought further evidence on this matter, and Natural England has been consulted as part of this appeal.
11. This Ramsar site is designated for its internationally important wetland features, which include the floristic and invertebrate diversity and species of its ditches. The evidence indicates that increased phosphates within the Ramsar site pose a threat to the conservation status of its qualifying features.
12. As the appeal scheme would result in the creation of at least 2 additional residential units, it is highly likely that there would be an increase in the number of occupants within the appeal site and an associated increase in the amount of phosphate containing waste waters generated. Although it is proposed that foul water would be disposed of via mains drainage to a wastewater treatment works, it is understood that the normal treatment of such waters would not remove all the phosphates. That being the case, and without appropriate mitigation, the development would increase phosphates entering the hydrological catchment of the Ramsar Site, causing further harm to its integrity.

⁵ As defined within the glossary at Annex 2 of the National Planning Policy Framework

13. It is the responsibility of the project promoter - in this case is the applicant/appellant, to provide the information necessary to support decision making in respect of undertaking the appropriate assessment. However, The Council has produced a series of guidance notes to help developers demonstrate phosphate neutrality for new developments. This includes a requirement to provide a phosphate budget along with details of a proposed mitigation strategy. Moreover, I appreciate that P-credits can be purchased towards Council and privately operated schemes to mitigate the adverse effects of increased phosphate generation from new developments. However, in this case, no phosphate budget has been provided by the appellant, nor has an adequate mitigation strategy - detailing the specific amounts and type of mitigation proposed.
14. Consequently, it has not been possible to establish; the extent of the increase of phosphates from the development. Nor is it possible to identify whether/which P-credit scheme – and its capacity, is relevant to the appeal scheme, or the amount of credits that would be necessary to mitigate the adverse effects of the development. Therefore, it has not been possible to ascertain that appropriate mitigation could be undertaken in order to ensure phosphate neutrality. Moreover, in the absence of specific details regarding the scale and price of any required mitigation, I am unable to establish that it would be viably provided.
15. In addition, and whether or not a 'Grampian' type planning condition could provide a suitable mechanism to secure a phosphate neutral scheme, no scheme specific suggested wording for such a condition has been put before me. Therefore, I am unable to establish that such a condition would be sufficiently precise and relevant to the development proposed, or that it would be effective to ensure that the scheme would be phosphate neutral in both the short and longer term.
16. With no certainty that appropriate mitigation measures would be implemented to ensure the delivery of a phosphate neutral scheme, I cannot establish that harm to the Ramsar site would be avoided. As such, I must consider whether there are any alternative solutions that would have a lesser effect on the features of the Ramsar site. However, no such solutions have been put before me. There are also no imperative reasons of overriding public interest relating to human health, public safety or benefits of primary importance to the environment, that would justify the development. Therefore, there are strong reasons why permission should not be granted.
17. For the reasons given above, there is insufficient information to demonstrate that the development would not cause harm to the integrity of the Somerset Levels and Moors Ramsar site. Consequently, it would conflict with policies CP8 and DM1 of the Taunton Deane Borough Council Adopted Taunton Deane Core Strategy – 2011-2028 Development Plan Document dated September 2012. Amongst other things, these policies seek to conserve and enhance the natural environment, and to prevent harm to protected wildlife species or their habitats.

Listed Building

18. There are some discrepancies between the proposed plans presented as part of this appeal. These discrepancies relate to the entrance/door to the residential flats, and the detailing to the rear elevation of the building. The parties have been given the opportunity to comment on these matters.

19. In addition, while undertaking my site visit, discrepancies were also noted between the existing exterior elevations of the building and the detail shown on the submitted plans – these include differences in window positions, detailing and surrounds.
20. At the time of my site visit, building works were ongoing at the property. I noted the absence of one staircase between the ground and first floors – despite it being shown on both the existing and proposed plans. I also observed a large internal flue with an outlet in the rear wall of the building and an alternative staircase between the ground and first floors – which are not shown on the plans. Moreover, sections of interior walls shown on the ground and first floor level plans were not present, and there were partition walls at first and second floor levels as well as kitchenettes in locations that do not reflect the details on either the existing or proposed plans.
21. It is imperative that drawings are accurate and unambiguous to avoid doubt about what is proposed. However, the discrepancies and uncertainties outlined above give rise to considerable concerns regarding the detail of the proposal. This is highly undesirable in general terms, but even more so given the building's Grade II listed status - a designated heritage asset of national importance, and its proximity to other listed buildings it is within the settings of.
22. However, given that the appeal is being dismissed on the basis of the harm that would be caused to a Ramsar site, there would be little to be gained by seeking to secure amendments to the plans to address discrepancies and inaccuracies. That being the case, I do not intend to further consider whether the development would preserve the listed building at 39 East Street or any features of special architectural or historic interest which it possesses, or whether it would preserve the setting of nearby listed buildings.

Other Matters

23. On the basis that the Council is unable to demonstrate a five-year housing land supply, paragraph 11. d) of the Framework is relevant in the consideration of this appeal. This paragraph provides a presumption in favour of sustainable development unless certain circumstances apply. One such circumstance at 11.d) i. is where the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. Footnote 7 of the Framework confirms that the policies referred to within 11. d) i. include those related to habitat sites and Ramsar sites. In this case, and for the reasons previously set out, the harm that would be caused to the Ramsar site from the implementation of the appeal scheme provides a strong reason for refusing the development proposed. That being the case, the presumption given by paragraph 11. d) is not triggered in this case.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR

