

Planning East – Appeal Decisions

Please see below list of appeal decisions made by the Planning Inspectorate between 19th September 2023 and 25th October 2023.

Full details of all appeals, can be found on the Council's website <https://publicaccess.mendip.gov.uk/online-applications/>

Application Reference	2021/1395/OTS
Site Address	Land adj to Whitemill, Marston Lane, Frome
Applicant/Organisation	Frome LVA LLP
Application Type	Outline Application
Proposal	Outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
Decision	Refusal (Planning Board)
Appeal Decision	Appeal Allowed & Costs Partially Allowed
Appeal Decision Date	09.10.2023



Appeal Decision

Site visit made on 18 July 2023

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Appeal Ref: APP/Q3305/W/22/3313309

Land adjacent to Whitemill, Marston Lane, Frome

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Frome LVA LLP against the decision of Mendip District Council.
 - The application Ref 2021/1395/OTS, dated 10 June 2021, was refused by notice dated 1 August 2022.
 - The development proposed is an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
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Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved at Land adjacent to Whitemill, Marston Lane, Frome in accordance with the terms of the application, Ref 2021/1395/OTS, dated 10 June 2021, subject to the conditions set out in the attached Schedule.

Applications for costs

2. An application for costs was made by Frome LVA LLP against Mendip District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Reason for refusal four states that it is the effect of the proposal on the dwelling of 61 Critchell Road that the Council have concern over. However, it has since been clarified that this should refer to the property of Whitemill. I have determined the appeal on the basis of this correction.

Main Issues

4. The main issues are:
 - Whether the proposed development accords with the spatial strategy of the development plan,
 - Whether safe and convenient access to the site can be achieved,
 - The effect of the proposal on the character and appearance of the area, and
 - The effect of the proposal on the living conditions of the occupiers of Whitemill, with particular regard to any overbearing effect.

Reasons

Spatial Strategy

5. Core Policy 1 of the Mendip District Local Plan (adopted December 2014) (the Local Plan) sets out the strategy for the location of new development within the district. Amongst other things, this policy states that development in the countryside will be strictly controlled, and only exceptionally permitted in line with the provisions of Core Policy 4.
6. The Council's reason for refusal refers to Core Policy 2 of the Local Plan. This policy specifically relates to supporting new housing, setting out the number of dwellings that are expected to be delivered and where; referring to locations within the settlement boundaries, as well as strategic sites, together with sites outside of settlement boundaries identified through a site allocations process.
7. The site is located outside of the settlement boundary, does not accord with the provisions set out in Core Policy 4 and has not been identified as a site suitable for development through any site allocation process. Thus, the proposed development conflicts with Core Policies 1, 2 and 4 of the Local Plan.

Access

8. The matter of access is for detailed consideration at this stage and the submitted details show a new vehicular access positioned centrally along the frontage of the site, joining Marston Lane. Details have also been submitted showing the provision of visibility splays on either side of this new access, measuring 2.4m x 35.7m to the south and 2.4m x 36.4m to the north.
9. While the stretch of road onto which the access would be positioned is subject to a 30 mile per hour (mph) speed limit, the submitted speed survey highlights that speeds are generally below this, with the 85-percentile speed at 26.5mph. This is likely due to a narrowing of the carriageway at this location, with vehicles slowing when they approach. Nonetheless, the road is wide enough for two cars to pass.
10. The Council asserts local knowledge as the basis for concern over the site access. However, there is no substantive, objective evidence to show that traffic speeds are above that identified in the speed survey. At the time of my visit, I was also aware of traffic slowing due to the narrowing of the road. In my view, in the absence of corroborative evidence to the contrary, I find that the proposed scheme would provide sufficient visibility of oncoming vehicles so that there would be no risk to highway safety.
11. As mentioned, there is a narrowing of the road at this location. However, I observed that two cars were able to pass. In the event of larger vehicles using this section, there is sufficient forward visibility along the highway to ensure that drivers of vehicles would be able to see oncoming large vehicles. I am content that such situations will likely exist currently and there is nothing before me to convince me that the road is unsafe, or that the increase in the traffic associated with the addition of five properties, at a location with a substantial number of existing accesses joining the highway, would result in it becoming so.
12. Some concern has been raised by interested parties in respect of the ability to achieve the necessary visibility splays without the need to include land not

within the control of the appellant. However, the submitted drawings indicate that the required visibility splays can be achieved over land within the appellant's control and the public highway. Therefore, this matter does not weigh against the scheme.

13. I am also conscious that the technical consultee and highway authority, Somerset County Council, raises no objection to the development, further reinforcing my view that the proposed access arrangements are safe.
14. Thus, a safe and convenient access to the site can be achieved and accordingly the scheme accords with policy DP9 of the Local Plan, as far as it seeks to ensure that development makes safe and satisfactory provision for access. The scheme would also not conflict with the highway safety aims of the National Planning Policy Framework (the Framework).

Character and appearance

15. The appeal is located to the western fringe of Frome and occupies a position along a ridge which, as the Council highlights, defines the boundary between the town and the surrounding countryside. To the west of the site ground levels fall away and as a result the ridgeline is visible from vantage points in the surrounding area. Policy D3 of the Frome Neighbourhood Plan identifies the site as within Skyline Area Site B, where it is required that new buildings demonstrate that there will be no unacceptably detrimental impact on the skyline of the area.
16. The appeal scheme would result in dwellings positioned near to Marston Lane, where there is already built development present. The appeal site does not extend to the western edge of the ridgeline, which is most visible from the surrounding area. As a result, the scheme would be viewed within the context of the existing development, and it is with this built form that it would share a close association.
17. I observed that from vantage points further to the west, from along Frome Road, there are views towards the appeal site. However, along the ridge, built development is already visible. The appeal site lies between groups of dwellings and would nestle between these in these longer distance views. Moreover, it would not extend downslope, which would limit its overall visual effect. Therefore, the scheme would not harmfully degrade the transition between the town and the countryside but would sit comfortably within the existing built form of the settlement.
18. There is also concern in respect of the effect of the creation of the new access along Marston Lane, in particular the loss of what is alleged to be a natural hedgerow. At my site visit, I observed that the boundary treatment along the highway comprises a stone wall which was significantly overgrown by brambles. This was not a defining feature of the character or appearance of the surrounding area. Indeed, there was a variety of other boundary features present, and numerous vehicular accesses joining the road. As such, I do not agree that the loss of the roadside wall and brambles would have any harmful effect, particularly as details of the treatment of the boundary along the highway can be secured at reserved matter stage.

19. My attention has been drawn to an appeal decision¹ for residential development along Marston Lane, where it was found that the scheme considered within that decision would be harmful to the character and appearance of the area. However, that scheme was for up to 150 dwellings and thus would have covered a considerably larger area and extend considerably further into the countryside. Also, that scheme would have brought built form over the ridgeline and down an attractive and prominent slope. This is patently not the case with the appeal scheme. As a result, it is not a comparable scheme to that which is before me. I can therefore draw no useful comparison from that decision.
20. Accordingly, I find that the proposal would have an acceptable effect on the character and appearance of the area, and would not conflict with policies DP1, DP4 and DP7 of the Local Plan. Together, and amongst other things, these policies seek to ensure that development contributes positively to local distinctiveness, does not degrade the quality of the local landscape and is of a scale, form, and layout appropriate to the local context. There would also be no conflict with the design aims of the Framework.

Living conditions

21. Whitemill is a dwelling located to the northwest of the appeal site and the Council highlights that it lies at a lower ground level, but do not refer to any specific measurement. The appellant states there is around a 1.5 metres difference. Even accepting the difference in levels, there is in my view sufficient separation between the appeal site and the existing property to ensure, subject to appropriate details at reserved matters stage, that there will be no overbearing effect on the occupiers of this property. This is particularly so given the open nature of the land surrounding the property.
22. I therefore find that the proposal would not have any unacceptable effect on the living conditions of the occupiers of Whitemill, having regard to any overbearing effect. Thus, there would be no conflict with policy DP7 of the Local Plan, insofar as it seeks to ensure development protects the amenity of users of neighbouring buildings. There would also be no conflict with the living condition protection aims of the Framework.

Planning Balance

23. It is common ground between the main parties that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. While the differing figures are provided by the Council and the appellant, given that both figures are below the required five-year supply, it is not necessary for me to explore this further. The lack of a five-year supply of deliverable housing sites results in the presumption in favour of sustainable development, as envisaged by paragraph 11 of the Framework, being engaged.
24. I have identified that the scheme would conflict with the locational strategy of the development plan. This relates only to the location of the site outside of the settlement boundary. It is however located directly adjacent to it. While there would be no harm to highway safety, the character or appearance of the area, or to the living conditions of neighbouring occupiers, this lack of harm is a neutral matter in the planning balance. Nonetheless, with these factors in

¹ APP/Q3305/W/22/3306827

mind, I accord only limited weight to the harm that would result from the development through the conflict with the locational strategy.

25. To be balanced against this limited harm are the benefits that would accrue from the development. These include the provision of five new self-build dwellings, where there is good access to services without the need to rely on the private car. There would also be economic benefits through the construction of the development and support for local business through an increase in the population of the area.
26. Overall, I consider that the package of benefits that would result from the development should be given significant weight in the planning balance, particularly as the appeal scheme would deliver new housing, including self-build units. As I have identified above, I accord limited weight to the harms that would result. Accordingly, in my judgement the negative factors resulting from the proposals, namely the conflict with locational policy, do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Thus, the planning balance indicates that a decision should be taken other than in accordance with the development plan.

Other Matters

Nature sites

27. The appeal site lies within the Mells Valley Special Area of Conservation (SAC) and the Mendip Woodlands SAC. Given the location of the site within these designations and that I find the scheme is acceptable in relation to the other main issues, such that I would be minded to allow the appeal on those matters, I must undertake an Appropriate Assessment (AA), to consider what impacts, if any, the development would have on these designated areas. I have undertaken this assessment on a proportional basis, drawing on the information provided by the Council and adopting a precautionary approach.
28. The Mells Valley SAC is designated for populations of Greater Horseshoe bats, semi-natural dry grasslands, and scrubland facies, as well as caves. The bat population is sustained by foraging habitat, as well as hedgerows used for commuting and foraging. The proposed development has the potential to impact this species through the loss or degradation of foraging habitat, the severance of flight lines and disturbance from new artificial light.
29. The Council identifies that in respect of the semi-natural dry grasslands and scrubland facies and caves of the Mells Valley SAC, as well as the Mendip Woodlands SAC, there would be no pathway of potential impact and thus no likely significant effect. I agree with this finding. However, the development would result in a likely significant effect on the bat population of the Mells Valley SAC. Consequently, this effect needs to be mitigated, in order to overcome the harm and make the development acceptable in planning terms. This aligns with the Council's own AA.
30. Natural England has been consulted on the AA undertaken by the Council, the findings of which I have agreed with. On the basis of this, NE has no objection to the proposals provided that appropriate mitigation is secured, in the form of a detailed ecological scheme to be submitted at reserved matters stage, a Construction Environmental Management Plan (CEMP) and details of lighting

within the site. Thus, subject to securing the mitigation, the scheme would not have an adverse effect on the nature conservation interests of nearby designated nature conservation sites. The ecological scheme can be secured by way of planning obligation, as discussed below, and the CEMP and lighting details by way of planning condition.

31. Subject to this mitigation being secured, the scheme would accord with policies DP5 and DP6 of the Local Plan, insofar as they seek to ensure that development must ensure the protection of important species and protect bat populations.

Planning obligation

32. The appellant has submitted a signed and completed Unilateral Undertaking (the UU) under Section 106 of The Town and Country Planning Act 1990. This undertaking seeks to secure that all of the dwellings constructed as part of the development will be Self-Build dwellings, as defined in the Self-Build and Custom Housebuilding Act 2015.
33. In addition to this, the UU also secures the provision of Biodiversity Net Gain, a Landscape Ecological Management Plan, Surface Water and Foul Water Drainage Strategies, as well as to establish a Management Company to ensure that the above are managed in the future.
34. The Council has been given the opportunity to comment on the submitted UU and without prejudice to its case that permission should not be granted, further to the stated reasons for refusal, it accepts the contents of the UU in the majority, with a number of amendments suggested to Schedule Four – Management Company. The Council considers that additions to this part of the UU should be incorporated which, in particular require that the appellant provide financial details in relation to the funding arrangements of the management company prior to occupation, and suggested insertions are provided in this respect.
35. In respect of the obligations pertaining to self-build housing, drainage, and ecological matters, I am satisfied that the obligations as contained within Schedules One to Three (inclusive) accord with the planning obligation tests as laid out in paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations.
36. Schedule Four seeks the establishment of a Management Company, which is to be responsible for the ongoing management of the above features. However, I am conscious that the future maintenance and management of these matters is specifically secured in the respective schedules of the UU. Given the scale of the development, at only five dwellings, in my view it is not necessary for a further mechanism of control to be imposed through a management company. To do so would be an obligation that is not fairly and reasonably related in scale and kind to the development. Thus, this part of the UU fails to meet the statutory and policy tests I refer to above, and the appellant should not be held to this specific obligation. The others remain relevant and necessary.

Additional matters raised

37. Comment has been made of the lack of infrastructure and services within the settlement, including health and education facilities, and that there is no capacity to cater for the proposed development. No substantive evidence has

been submitted to demonstrate that there would be any unacceptable effect in respect of these matters.

38. Interested parties also make reference to the possibility of brownfield sites being available elsewhere, as well as that there are other development taking place within the settlement which will deliver new housing, that permitting the scheme would set a precedent, that there would be potential for further development nearby and the presence of a covenant on adjoining land. These matters are noted but are not sufficient to dissuade me from my findings above.
39. Concern is raised that dwellings could be positioned within the root protection area of trees. However, the matter of layout is not for determination at this stage and as such this has little bearing on my decision.
40. Mention is also made that the site was considered and rejected for inclusion within the Local Plan, at the time it was examined by an Inspector. However, that consideration was made in 2000, a considerable time ago. Moreover, there is nothing that convinces me that a detailed scheme was considered and thus the findings of the Inspector at that time do not lead me to conclude that the appeal scheme that is before me is unacceptable.
41. In terms of biodiversity, the development would result in the loss of part of a field as well as some of the existing boundary features. However, there is no substantive evidence that the scheme, subject to mitigation as set out above, would result in any unacceptable effect in this regard.
42. Mention is made of possible overshadowing of neighbouring properties, however given the separation distances involved, together with the location of existing properties in relation to the appeal site, I find that there would be no significant or unacceptable shadowing of nearby dwellings.

Conditions

43. When considering the suggested conditions, I have borne in mind the tests laid out in paragraph 56 of the Framework.
44. I have imposed the standard conditions for an outline planning permission, albeit I have allowed additional time in recognition of the scheme being self-build. In the interests of certainty, I have also imposed a plans condition, albeit that I have removed some stated extraneous plans that were suggested.
45. A condition has been suggested to inform the submission of future reserved matters. This includes the stipulation of car parking provision. However, control in this respect would be possible through the reserved matter of layout. I do however consider it necessary to require details of energy efficiency in the interests of environmental sustainability. Additionally, to ensure a satisfactory form of development, details of design principles are also required, as well as visual effects. I do not consider details of heights and the treatment of the western edge of the development are necessary as these also are matters that can be controlled through future reserved matters applications.
46. In the interests of highway safety, conditions are required in respect of the construction of the vehicular access and visibility splays. To prevent degradation of the environment, a condition is required in respect of drainage.

47. So that the scheme has an acceptable effect on matters of biodiversity importance, conditions are also required in respect of a Biodiversity CEMP as well as external lighting. The appellant has requested that a number of conditions, including those in respect of biodiversity protection, be phased in recognition of the self-build nature of the proposal. While this is noted, given the findings of my own and the Council's AAs, together with the comments provided by Natural England, I am not satisfied based on the information available to me that allowing this information to be provided on a phased basis, and not in a comprehensive manner, would ensure that these matters are appropriately addressed.
48. To ensure that there would be no unacceptable effects on the living conditions of nearby occupiers or on highway safety during the course of the development, a Construction Management Plan is required.
49. A condition is suggested requiring details of levels, and adherence with parameters for heights. While I consider details of levels are necessary, the matter of building heights can be controlled through approval of the details of appearance as a reserved matter.
50. The suggested condition in respect of the retention of garages is not necessary at this stage, as only the matter of the means of access to the site is for determination. Similarly, the suggested condition in respect of accordance with approved landscaping details is not required, as landscaping is not for determination at this stage. For this reason, as layout and landscaping are for future determination, a tree protection condition is not necessary at this stage.

Conclusion

51. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR

SCHEDULE OF CONDITIONS (12)

1. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") for each plot shall be submitted to and approved in writing by the local planning authority before any development takes place on that plot and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:
 - Drawing Numbers 2 001G, 2 010A, 2 110F and 4473 002 Rev A.
 - Ecological Impact Assessment.
5. With the first reserved matters submission each respect of each plot, the plans and particulars shall include details of:
 - an Energy Efficiency Statement Incorporating into development scheme practical measures to achieve energy efficiency through siting, layout and, design and renewable energy generation.
 - Design principles for the site area to include the following:
 - How the proposals integrate/assimilate with the built edge of Frome and respond to the existing built character; and
 - The impact of the new roof lines within wider views.
6. No occupation of the development shall commence until the visibility splays shown on drawing number 4473-002A have been provided. There shall be no obstruction exceeding 300mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.
7. No occupation shall commence until the approved vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel) for the first 6 metres of its length as measured from the edge of the adjoining carriageway. The access shall be retained as such thereafter.
8. Notwithstanding the details submitted, no development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. Discharge from the site shall be restricted to greenfield rates of runoff with attenuation provided up to the 1 in 100 year plus 40% climate change event. The scheme shall include a programme of phasing, implementation, and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.
9. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan

(CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones".
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including: protection measures for retained trees and hedgerows; sensitive vegetation clearance measures for amphibians, reptiles, nesting birds and hedgehogs; safeguarding measures for bats; and safeguarding measures for badgers including buffer zones.
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- Use of protective fences, exclusion barriers and warning signs.
- Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

10. No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
11. No development on each plot shall take place until a Construction Management Plan for that plot has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors,
 - loading and unloading of plant and materials,
 - storage of plant and materials used in constructing the development,
 - wheel washing facilities,
 - measures to control the emission of dust and dirt during construction, and
 - delivery and construction working hours.The development shall thereafter be undertaken in accordance with the approved Construction Method Statement.
12. No development on each plot shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed

buildings, in relation to existing ground levels, for that plot have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

END OF SCHEDULE



Costs Decision

Site visit made on 19 July 2023

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Costs application in relation to Appeal Ref: APP/Q3305/W/22/3313309 Land adjacent to Whitemill, Marston Lane, Frome

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Frome LVA LLP for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant, seeking a full award of costs, relies on the Council having prevented or delayed development that should clearly have been permitted, failing to produce evidence to substantiate each reason for refusal, making vague, generalised, or inaccurate assertions about the proposals impact and refusing permission on the basis of a matter capable of being dealt with by condition. This follows a positive recommendation to approve the planning application by officers to the Council's Planning Board, but which the Board then decided to refuse. It is contended that the reasons for refusal do not withstand scrutiny and that there is no harm arising from the matters alleged in the reasons for refusal.
4. In relation to the reason for refusal pertaining to highway safety, the applicant contends that there was sufficient information presented at the time of the application to demonstrate that there would be no detriment to highway safety. It is further highlighted that there was no objection to the scheme from the Council's highways consultee. I am conscious however of the Council asserting that the decision to refuse the application on this basis was made having regard to the local highways knowledge of the members of the Planning Board. The minutes of the Board meeting clearly show that Members were concerned over the width of the road at the point of the proposed vehicular access and that, notwithstanding the findings of the speed survey, there were concerns over its results and that they may not be representative of the actual speeds of vehicles at this location. As such, it is clear that the Board members considered

the submitted information but were unconvinced by it, a view that they were entitled to come to, despite the positive recommendation from Officers. Thus, I do not find that the Council has been unreasonable in the formulation of the reason for refusal in respect of access, despite me disagreeing when making my decision.

5. The applicant considers in respect of the second and third reason for refusal that they do not result in any harm, either through the loss of any roadside hedge or other landscape impact of the development, particularly on the skyline, as is alleged. Again, when making my decision I have disagreed with the contentions of the Council and found that there would be no harm through the loss of any roadside boundary feature or through any unacceptable visual effect on the ridgeline at this location. However, I am mindful that this can be a subjective matter and that individuals may have differing opinions on this. The Members of the Board considered that the scheme would be detrimental in this regard. In my view, that is a view that the Members on the Board were entitled to reach. They are not bound to accept the recommendation of the officer, provided they can show good reason for departing from it. While I have not agreed with the Council on this point, the evidence submitted adequately establishes the basis on which the scheme was resisted. Thus, I consider that concerns in this regard were not unreasonable.
6. The fourth reason for refusal relates to the effect of the proposal on the nearby property of Whitemill. The Council points to the difference in levels between the appeal site and this property and that the positioning of two-storey dwellings immediately adjacent to it would be harmful. However, the application was submitted in outline with only the matter of access for determination. Matters of scale and layout are for future consideration. Furthermore, the illustrative layout provided shows sufficient separation between the existing and proposed buildings. In my view, it has not been sufficiently demonstrated that the Council was reasonable in taking the position that it did in this regard; there is only scant reference to this matter within the Minutes of the Board meeting and this is not sufficient to establish reasonable grounds for taking a view different to that of the recommendation of the Planning Officer in respect of this matter. The applicant has been put to unnecessary expense in seeking to defend this reason.
7. Reason for refusal five refers to the planning balance undertaken by the Council, identifying the harms alleged and weighing them against the benefits of the scheme. This is a quintessential matter of planning judgement for the decision-maker. The Members of the Board had substantive concerns in regard to the development and they considered these to significantly and demonstrably outweigh the benefits. I find nothing unreasonable in that assessment.
8. Nonetheless, I therefore find that, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the reason pertaining to the alleged effect on the living conditions of neighbouring occupiers, and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended,

and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Mendip District Council shall pay to Frome LVA LLP the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the fourth reason for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to the Mendip District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Allen

INSPECTOR

Application Reference	2022/0895/OUT
Site Address	Land at Frome Road, Norton St Philip
Applicant/Organisation	Mr B Waldon, Springleaze Trading Ltd
Application Type	Outline Application
Proposal	Application for outline planning permission (all matters reserved) for a residential development of up to 30 dwellings (including 10 affordable dwellings), formation of access, ancillary public open space and landscaping (Re-submission).
Decision	Refusal (Delegated)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	10.10.2023



Appeal Decision

Site visit made on 15 August 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/Q3305/W/23/3318169

Land At Frome Road, Norton St Philip BA2 7NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr B Walden of Springleaze Trading Ltd against the decision of Mendip District Council.
 - The application Ref 2022/0895/OUT, dated 29 April 2022, was refused by notice dated 9 September 2022.
 - The development proposed is application for outline planning permission (all matters reserved) for a residential development of up to 30 dwellings (including 10 affordable dwellings), formation of access, ancillary public open space and landscaping (Re-submission).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading has been taken from the Council's decision notice and the appeal forms because it more accurately describes the number of dwellings proposed. The application was submitted in outline with all matters reserved.
3. The appeal is accompanied by an alternative indicative layout plan¹, illustrative sectional drawing² and illustrative perspective³ which show an option for development on the site. These plans have not been subject to any public consultation but have been available for the Council and third parties to view. Given that the application is for outline planning permission with all matters reserved, the indicative nature of the plans, and given my findings below, I am satisfied that no party would be prejudiced by my consideration of these plans. I have therefore considered them in determining this appeal but treated them, and any other site plans dealing with the matters reserved, as illustrative only.
4. The appellant has advised that the appeal has been lodged because they believe circumstances have changed significantly since the previous appeal at the site⁴ and since the refusal by the Council of the application that is the subject of this appeal. The appellant advises that these circumstances relate primarily to a High Court Judgement following a Judicial Review⁵ (JR) of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies which resulted in five Local Plan housing allocations being struck out. This includes one site in

¹ 1685.21.AL.1.100 Rev.P5

² Site Section SK01

³ Streetscene 02-A3

⁴ APP/Q3305/W/21/3287786

⁵ Case No: CO/323/2022

Norton St Philip referenced by the previous Inspector. During the course of the appeal, I sought comments on the current position of the Local Plan in light of the JR. I have taken the comments received in relation to this into account and will return to this matter below.

5. Also, after the determination of the planning application and prior to my site visit, the appellant submitted a signed and dated planning obligation (Unilateral Undertaking) to make provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements. The Council subsequently confirmed that the UU addresses its second reason for refusal. However, I am still required to consider this agreement in relation to the Regulatory tests of the Community Infrastructure Levy (CIL) and will return to this below.
6. The Council's first reason for refusal references the Norton St Philip Neighbourhood Plan. I have limited details of the status of the plan although I understand that it has not progressed passed the examination stage to referendum. On that basis, I give the document little weight.

Main Issues

7. The main issues for the appeal are:
 - whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy and including effects on the character and appearance of the area, and
 - whether affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links and highway infrastructure improvement planning obligations are necessary and suitably provided.

Reasons

Location and Character and Appearance

8. Norton St Philip, which is designated as a primary village under Core Policy 1 (CP1) of the Mendip District Local Plan Part 1: Strategy and Policies 2014 (LPP1) is located broadly to the north-west of the appeal site. The appeal site lies outside the defined settlement boundary. As a result, it lies in the open countryside for the purposes of CP1 (1c.) of the LPP1 that sets out that development in the open countryside will be strictly controlled and exceptionally permitted in line with Core Policy 4 (CP4) of the LPP1.
9. Policy CP4 contains criteria permitting development in the countryside that, amongst other things, provides rural affordable housing, provides occupational dwellings where there is a proven and essential functional need, supports the rural economy and range of community facilities. As the proposal includes a high percentage of open market housing and would not support the rural economy or community infrastructure as detailed within the policy, the proposal does not meet any of the listed criteria in CP4 to justify its location and the extension of built form into the countryside beyond the defined settlement limits.
10. Policy CP4 reflects Policy CP1(3.) that states that in identifying land for development in the Local Plan, any development outside of development limits will be strictly controlled. Therefore, despite the site's location fairly close to

the services and facilities within Norton St Philip, the proposed development beyond the settlement boundary does not meet any of the exceptions for residential development in the countryside. As a result, the proposal is not justified by LPP1 policies and is therefore contrary to the development strategy.

11. Turning to the effects on the ground from the encroachment into the countryside, the site does not form part of any formal landscape designation and is itself part of a larger undeveloped field adjoined by low-density linear residential development fronting Frome Road with open paddocks to their rear. The linear low-density housing and paddocks provide a visual and physical transition from the more densely built-up area of the settlement into the countryside. The generally undeveloped and open nature of the paddocks, application site and the larger field that it forms part of, make a considerable contribution to the landscape and setting of the settlement providing a gentle and gradual transition from built development to countryside on approach and when leaving the settlement. This assessment is supported by the sites designation within Character Area C2 of the 'Cotswold Edge' within the Landscape Assessment of Mendip District 1997 (LA) that recognises the predominance of arable fields, in this instance located in a key and prominent position forming a green and open approach to the settlement.
12. By reason of the scale of the development and the built form extending a considerable distance back from the road into the field, the proposal would result in a considerably higher density of residential development in comparison to the adjoining development on Frome Road. As a result, the transitional linear lower density of frontage development along Frome Road would be disrupted and replaced by a scale and form of development alien to its transitional context. Although there is some flexibility with an application in outline with all matters reserved, essentially in light of the quantum of development proposed and size and shape of the appeal site, the existing low-density linear pattern of development would not be replicated with the open transitional contribution to the wider area eroded.
13. Despite the opportunities for the retention of the existing boundary hedging, and introduction of additional landscaping that the flexibility of the outline proposal would allow for as shown on the indicative layout plan, it would still be likely that some of the houses would be visible above the hedgerow and through tree planting when travelling along Frome Road or Tellisford Lane. The development would also be visible through the proposed access, from surrounding properties on Frome Road and Tellisford Lane and from the proposed footpath link from the development to Tellisford Lane. As a result, the significant change in character would be noticeable and contrary to the linear pattern of built form when travelling through the area and through the transitional zone between the built-up area of the settlement and the open countryside.
14. In addition, in light of the character of this part of the open countryside on approach to the site on Frome Road and Tallisford Lane comprising mainly low field hedgerows with sporadic trees, the inclusion of significant groups of tree planting to screen the proposed dwellings would in itself be an alien and visually unnatural addition on approach to this part of the settlement. This has the potential to draw attention to the site and associated dwellings further undermining the transitional nature of the area. Whilst I appreciate that the LA states that tree cover increases on the approach to villages strengthening the

contrast with the landscape, there are few trees on approach to Norton St Philip past the appeal site. As such, the introduction of a significant number of trees would be harmful to, and at odds with, the existing character of the immediate area.

15. Overall, the proposal would not be in an appropriate location for housing with particular regard to the local development strategy and would harm the character and appearance of the area. Therefore, it would not accord with Policies CP1, CP4, DP1, DP4 and DP7 of the LPP1, which among other things strictly and exceptionally control development in the countryside, seek to ensure proposals contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district, states that development that would individually or cumulatively significantly degrade the quality of the local landscape will not be supported and state that proposals should be of a scale, mass, form, and layout appropriate to the local context. In addition, the proposal would be contrary to the National Planning Policy Framework (the Framework) that seeks to ensure that development reflects the character of an area, safeguards the environment and recognises the intrinsic character and beauty of the countryside.

Planning Obligations

16. The Council's decision notice includes a second reason for refusal relating to the absence of a suitable planning obligation to make adequate provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements as necessary in accordance with LLP1 policies and the Framework.
17. However, this reason for refusal is no longer being pursued by the Council following the submission of a signed and completed unilateral undertaking. This secures at least 30% affordable housing, contributions per dwelling towards the provision of a LEAP and the provision of a MUGA, on-site provision of a community orchard, LAP and open space, provision of a travel information pack, travel plan, travel plan fee, travel voucher scheme, provision of a management company for the community orchard, open space and sustainable urban drainage system (SUDs), and the submission, laying out and maintenance of a SUDs scheme.
18. Notwithstanding this, it is necessary that I consider this obligation against the three tests set out in paragraph 57 of the Framework and pursuant to the Community Infrastructure Levy (CIL) Regulations 2010.
19. The proposal would provide at least 30% affordable housing provision, comprising 80% Social Rented Housing and 20% Shared Ownership. This would be secured by planning obligation in the submitted UU, and would be necessary, directly, fairly, and reasonably related in scale and kind pursuant to Policy DP11 of the LPP1. Among other things, the policy sets the level of affordable housing provision to inform the Council's negotiations towards meeting the district's housing need from all housing proposals, whilst ensuring it is secured in perpetuity.
20. Most new housing development of this scale brings about demand for public open space, play space, community orchard, SUDs facilities and an associated management company, therefore I am satisfied that the proposed obligations

and contributions would be necessary to make the development acceptable in planning terms. These obligations therefore meet the relevant tests.

21. The Council are content that issues in relation to the provision of a travel information pack, travel plan, travel plan fee and travel voucher scheme could be appropriately mitigated and managed through the provision of the legal agreement securing these obligations. The UU accompanying the appeal makes provision for these obligations and renders the development acceptable in planning terms. They are also manifestly directly related to the site, and are proportionate, as they seek to do no more than is necessary.
22. On the basis of the above, I consider the UU to accord with the criteria of CIL Regulations 122 and with paragraph 57 of the Framework.

Other Considerations and planning balance

23. I appreciate that the proposal would cause no significant harm to ecology, flooding, community safety, traffic generation, waste, noise and pollution or archaeology. I also appreciate that the proposal would incorporate the use of sustainable materials and construction methods and would comprise suitable sustainable urban drainage, hedgehog holes, bird and bat boxes and electric car charging points. However, as these matters are requirements of local and national planning policy for development, they are neutral in my consideration.
24. Other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and as such I give them limited weight.
25. The fact that the site is not affected by phosphate issues that affect parts of the southwest of the district does not in itself justify the proposal and carries little weight.
26. The Inspector dealing with the previous appeal, along with the appellant and Council concluded that due to significant distances and intervening landscape features, that outline proposal would not harm the setting or significance of any designated heritage assets in the locality. This includes Norton St Philip Conservation Area, Grade I listed building of The George or Grade II listed buildings of Chatley House and Chatley Farmhouse. In accordance with my statutory duties under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, based on the heritage evidence submitted by the appellant, the Council's officer report and comments from relevant consultees, I agree that the heritage significance of these assets would be preserved by this appeal proposal. This is neutral in my consideration.
27. The provision of 10 affordable housing units carries moderate weight in favour of the proposal, as do the benefits to the supply of housing. There would be other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents. These also carry some weight alongside the environmental benefits from additional planting and social benefits from a new community orchard and footpaths and associated links that would be provided through the site. The provision of travel information packs, travel plan, travel plan fee and travel voucher scheme are necessary to mitigate the impacts from the development and as such are neutral in my consideration.

28. Based on my findings under the first main issue, the development would be contrary to the local development strategy and cause significant harm to the character and appearance of the area. The relevant policies are largely consistent with the Framework where it states that planning decisions should reflect the character of an area, safeguard the environment and recognise the intrinsic character and beauty of the countryside. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
29. The JR of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies (LPP2) has struck out a housing allocation for 27 dwellings in Norton St Philip, along with 4 other sites across the authority. One of the consequences of the JR is that the Council are required to undertake a partial review of the LPP2 to identify sites for the 500+ dwellings struck out as part of the JR. The Council have until the 1 July 2024 to submit this to the Planning Inspectorate. Partly, although not solely, as a result of this, it is common ground between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied.
30. From the schedule of accommodation set out on the application form the appeal proposal would provide a number of benefits, including providing a considerable number and mix of dwellings (including self-build) on a small site fairly close to a range of services and facilities which would contribute towards the supply and mix of housing in the area. It would also provide a considerable number of affordable housing units in an area of significant need and historic under provision.
31. At 30 dwellings with 10 affordable housing units, the development and benefits would be appreciable and in light of the lack of a five-year supply of deliverable housing sites and implications from the JR, this carries considerable weight. The other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents carry a moderate amount of weight. As do the environmental benefits including additional planting and social benefits from a new community orchard and footpaths and associated links.
32. As stated above, other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and I give them limited weight. The provision of hedgehog, bat and bird boxes and new public open space are necessary to mitigate the impact from the development so do not weigh in favour of the proposal.
33. In contrast, I have found that the appeal proposal would result in significant harm to the local development strategy and character and appearance of the area.
34. In light of the above, and although I attribute considerable weight to the benefits of the proposal, these are outweighed by the significant harm to the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

35. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. The appeal is dismissed.

C Rose

INSPECTOR

Application Reference	2021/1430/FUL
Site Address	Land accessed off Bindon Lane, Witham Friary, Frome
Applicant/Organisation	Mr & Mrs Pritchard
Application Type	Full Application
Proposal	Change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage and 2No. 'American barns' with associated parking, paths, muck heap & hard standing and alterations to existing access. Also installation of a mobile home to be occupied by the owners in association with the business.
Decision	Refusal (Planning Board)
Appeal Decision	Appeal Dismissed & Costs Refused
Appeal Decision Date	18.10.2023



Appeal Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/Q3305/W/23/3323827

Land accessed of Bindon Lane, Witham Friary, Frome

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Pritchard against the decision of Mendip District Council.
 - The application Ref 2021/1430/FUL, dated 15 June 2021, was refused by notice dated 15 December 2022.
 - The development proposed is change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage, 2 'American barns' associated parking, paths, muck heap & hard standing. Also installation of a mobile home to be occupied by the owners in association with the business.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by the appellants. This application is the subject of a separate decision.

Preliminary Matters

3. Mendip District Council has now merged with other councils in Somerset to form Somerset Council. However, the development plan for the area formally covered by the District Council remains in place until such time as it is revoked or replaced. I have determined the appeal on this basis.
4. While not a reason for refusal, matters of highway safety have been raised by interested parties. The appellants have had opportunity to comment on this issue prior to, and at the Hearing.
5. During the appeal process and following the submission of appeal statements, the appellant has submitted amended plans in relation to highway access. They suggest that this information should be considered in the appeal decision to address third parties concerns in relation to highway safety. Further late evidence was submitted within and immediately after the hearing which were discussed at the event.
6. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. The change within the plans relate to the existing access and the incorporation of a lockable gate. Notwithstanding the Council's engagement

with the plans, I note the concerns of interested parties of a lack of opportunity to fully respond to these plans prior to the Hearing. Due to the extent and nature of the change fundamentally amending the proposed access solution in relation to the proposed blocking up of the existing access, and in the interests of fairness I consider that parties may be prejudiced if I take this information into account. As all parties were informed at the Hearing, I have therefore assessed this appeal on the highway access plans that formed the basis of the Council's decision.

7. Other late documents were submitted during and directly after the Hearing (as detailed at the bottom of this decision letter). Given that these documents do not fundamentally alter the proposal and the relevance to discussions between all parties at the Hearing, I have taken these particular documents into consideration in my decision.

Main Issues

8. The main issues are:

- Whether there is an essential need for a rural worker to live permanently at the appeal site;
- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on highway safety.

Reasons

Essential Need

9. The appeal site lies outside of any recognised development boundary. In such locations Core Policy 1: Mendip Spatial Strategy of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 15 December 2014) (LP) states that development will be strictly controlled but may exceptionally be permitted in line with the provisions set out in Core Policy 4: Sustaining Rural Communities. This Policy supports occupational dwellings in rural locations, where there is a proven and essential functional need to support agricultural, forestry and other rural-based enterprises.
10. In this respect, LP Policy DP13 supports proposals for permanent or temporary accommodation in open countryside locations which are necessary to support rural enterprises subject to certain criteria. Amongst other things, this criterion includes that it can be demonstrated that the dwelling and its proposed location are essential to support or sustain the functioning of the enterprise; there is a need for permanent occupation which relates to a full-time worker or one who is primarily employed by the business; and all alternative accommodation options have been explored and no satisfactory alternative means of providing accommodation has been identified.
11. LP Policy DP13 also supports the grant of temporary permission for a 3-year period for new rural enterprises, where clear evidence, through a business plan or other assessable proposal, shows a firm intention and ability to develop the enterprise on a sound financial basis.
12. Paragraph 80 of the National Planning Policy Framework (Framework) seeks to avoid isolated homes in the countryside unless one or more circumstances apply, including where there is an essential need for a rural worker to live

permanently at or near their place of work in the countryside. The Planning Practice Guidance (PPG) outlines how the need of isolated homes in the countryside for essential rural workers can be assessed including evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an enterprise; the degree to which there is confidence that the enterprise will remain viable for the foreseeable future; and in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

13. The appellants currently operate a riding school from rented land elsewhere. I heard from Mrs Pritchard at the Hearing that the riding school has successfully been operating for some 11 years and provides a range of equine related activities including riding lessons, hacks and camps to a broad range of customers including adults and children.
14. At the time of the application the submission indicates the business had 13 horses and ponies, although a Business Appraisal (BA) by Ian Judd & Partners submitted with the appeal indicates 9 horses and ponies. At the Hearing I was advised by the appellants that this number is actually 12 horses and ponies, with the additional horse being retired from the enterprise, but retained by the appellants. The BA also outlines the labour requirement of the enterprise, being 2.44 full-time employees, which is not refuted by the Council.
15. The appellants indicate that the supervision of the horses and ponies and their care, safety and welfare, as well as site security cannot be undertaken whilst living remotely from the site resulting in an on-site presence at all times being essential. It is put to me that such examples of incidents include colic, horses becoming cast, injuries suffered in the fields, and horses escaping. At the Hearing I heard from the appellant's veterinary surgeon, Mr Francis, who has considerable experience in equine care.
16. Mr Francis outlined that the welfare of horses is paramount and there are a number of differing reasons why a vet is called to a site including those described above. Mr Francis noted how living on the site would clearly benefit the welfare of the animals and how in such circumstances such as colic, which Mr Francis stated could be mild to fatal, it is better to be on site to provide quick reaction and ongoing care.
17. However, it is not unusual for horses to be unsupervised in locations that do not have a permanent dwelling on site. I accept that there may be situations where horses need a quick response in order to alleviate, minimise or remove risk of injury arising through illness or accident. This is corroborated by Mr Francis and the oral evidence of Mrs Pritchard.
18. Mrs Pritchard stated at the Hearing there had been numerous incidents requiring attention at her current enterprise and provided an example of an incident which required Mrs Pritchard to be present on the site for 3 nights in order to care for a horse, although I note that this was the only instance provided where Mrs Pritchard had to stay overnight in the last 18 months. From the evidence before me, the need to attend to the horses during the night is very occasional. Whilst such episodes cannot be predicted, they are clearly infrequent. There is no convincing evidence before me to suggest such incidences are any more likely overnight than during the day when workers are present and thereby it is not shown that the enterprise requires a worker to live on site.

19. With regard to security, I understand the concerns voiced by Mrs Pritchard in relation to the effect of the enterprise if tack, equipment, or indeed horses were stolen. It was put to me at the Hearing by the appellants side that security systems such as CCTV are not effective and would prevent an immediate response to any incident. However, no substantive evidence has been put to me as to why horses and equipment could not be adequately protected using security systems such as alarms and surveillance, which would also likely act as a deterrent against criminal activity. It has therefore not been adequately demonstrated that no other security measures could be undertaken other than the requirement to live on the site.
20. In terms of the availability of alternative accommodation, as well as property searches noted within the written evidence, I heard at the Hearing from the appellants side that a search for available properties had very recently been undertaken taking into account properties for rent and sale in both a 3 mile, and 5 mile radius of the appeal site. Although I have no written evidence of these later searches, I am told these searches indicate 1 property for rent within 3 miles, and 7 within 5 miles, and 5 properties for sale within 3 miles, and 8 within 5 miles. However, it is put to me that the cost of these properties is prohibitive.
21. The Council have put to me that they would expect a search radius of 5-10 miles to be appropriate, with settlements providing significant numbers of accommodation 7 miles from the appeal site. The appellants currently do not live at their existing premises, but some 30 minutes drive away. However, the landowner from whom the appellant rents the land does currently live within sight and sound of the enterprise, and I am told provides observation of the site and animals and informs the appellants of any issues.
22. Notwithstanding, the appellant's current business has operated successfully with the appellants being some distance from the site. I accept that the close proximity of the landowner may have resulted in some incidents being dealt with in a more timely manner. However, given the infrequent nature of potential incidents, and that the site would be attended during the day, as well as possible security systems such as CCTV that could be utilised during the night, travel time from properties up to 10 miles away would appear appropriate.
23. On the basis of the evidence before me, I am not persuaded that nearby alternative accommodation, including within nearby settlements, which may be close enough to make visits to the site at unsocial hours, including in response to remote alarms, is not a practical proposition.
24. The BA states that the appellant's existing enterprise has made a profit in each of the eleven years it has been running. Three years of tax returns were provided within the application documentation outlining the turnover and allowable expense of the business. Whilst providing some confidence, these do relate to the existing business, and the proposal does differ in terms of capital costs, expenses and services provided such as livery not being offered within the proposed enterprise. In this regard the BA notes a gross margin of £53040 per annum once fully established. However, this is based on various assumptions, and I note inconsistencies with the assumptions utilised and that put forward elsewhere in evidence, such as the number of horses and ponies as well as projections within other supporting information such as the Design and

Access Statement. As such, I cannot be certain that the projections in the evidence before me are correct.

25. I also heard from the appellants at the Hearing in relation to the anticipated capital costs of the new enterprise, noting the appellants ability to undertake some of the work themselves, as well as methods of finance in place to meet the projected expenditure. The proposal however is not supported by a great deal of verifiable financial information, noting that some potentially large expenses such as electrical connections have not been factored in, or any evidence (aside from a quote for a bore hole handed to me at the Hearing) to confirm the figures given.
26. Whilst I acknowledge that the appellants have operated a similar enterprise successfully elsewhere for a significant period of time, this proposal relates to a differing site with differing financial implications. Projections provided to me indicate an increase in profits which I was told at the Hearing by the appellants side would be due to increases in fees as well as less cost in the business due to the appellants not having to rent the land or their accommodation.
27. However, I was also told by the appellants about difficulties with demonstrating projections due to 'no 2 days being alike' within the business. Although this may be so, I find inconsistencies with the information provided. There is also some uncertainty in the submission in terms of numbers of lessons, hacks or camps that would be offered, with variance given within the written evidence, and orally at the Hearing. In the absence of more detailed consistent information, robust evidence that the activity is planned on a sound financial basis is absent.
28. Although I am considering part of this appeal as a proposal for accommodation for a temporary period, to allow it would require reasonable certainty that, within three years, the business would be capable of becoming financially viable. On the basis of the evidence before me, and that provided at the Hearing, such reassurance is currently lacking.
29. For the above reasons, I conclude that an essential need for a rural worker to live permanently at the appeal site has not been demonstrated. Accordingly, the proposal would conflict with LP Policy DP13, the purpose of which I have previously outlined.

Character and Appearance

30. The appeal site is an area of agricultural land located to the southeast of Bindon Lane and bordered by a railway line. Due to the surrounding topography, which falls from Bindon Lane towards the site, the site is at a noticeably lower level than Bindon Lane but is largely screened from public views by mature hedge and tree planting outside of the site area to the northwest. The site is not within any protected landscape designations, although my attention has been drawn to the proximity to the Cranborne Chase Area of Outstanding Natural Beauty and Dark Skies Reserve.
31. The site falls within the South West Upper Valley Character Area of the Mendip Landscape Character Assessment (LCA), the key characteristics of which include small scale irregular field patterns. Furthermore, perceived characteristics also make an important contribution to the character of the area and are noted to include areas feeling generally remote and isolated, unspoilt

countryside and areas of good degrees of tranquillity with occasional disturbance from rail lines. I observed that the appeal site exhibits these key and perceived characteristics and contributes positively to the character and appearance of the area.

32. A section drawing has been provided with the appeal documentation that is based on lidar data. Whilst this may not provide as accurate a representation as a topographical survey, it does provide a good indication of the topography of the area and relationship with the proposed built form.
33. The proposed mobile home is located to the higher area of the site. Whilst the small scale, proposed hedging and temporary nature of the mobile home are acknowledged, it would nevertheless appear somewhat incongruous in the landscape from the viewpoints it would be visible due to its domestic appearance. The parking area would similarly be partially screened by hedging, and whilst public views of parked vehicles may be limited due to the current mature planting, the scale of the parking provision, when in use would also draw the eye to the site, particularly if the mature screening were not to be retained. However, I acknowledge that the barn buildings would be of an appearance, and incorporate appropriate external finishing materials reflective of, and not dissimilar to other agricultural buildings I observed in the wider area.
34. From my observations, glimpse views of the barn buildings, mobile home and parking area would currently be possible from Bindon Lane, more so during winter months when foliage is not in leaf, with wide views being available from private land to the south. Moreover, as the existing mature screening along the northwest boundary is outside of the appeal site, the appellant has no control over its retention, with minimal area available for any additional landscaping along this boundary. If this were to be removed, notwithstanding floor and roof levels, the variety of proposed built form would be prominent.
35. Additionally, notwithstanding the appellant's suggestion at the Hearing that a condition could be imposed restricting lesson numbers, the proposal would inevitably result in movements and general activity at the appeal site that differs significantly and noticeably from the agricultural use of the site, at odds with the previously described perceived characteristics of the area.
36. Furthermore, even if conditions were imposed ensuring floor levels are not significantly increased, or an appropriate lighting scheme including times of operation could be agreed and secured, such lighting in this location would add to the prominence of the enterprise when in use. In combination, the scale of proposed built form, movements and general activity associated with the enterprise, as well as lighting required during the hours of operation in darkness would result in a noticeably intensive use within the surrounding countryside landscape which is largely undeveloped between Bindon Lane and the railway line.
37. Although equine enterprises are not unusual in the countryside, such an intensive commercial use in this location, combined with the reliance on mature screening outside of the appellant's control, would result in a level of development, at odds with, and harming the previously described characteristics of the surrounding area.

38. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The proposal would therefore conflict with LP Policies CP1, CP4 and DP1. These policies seek, amongst other matters, to ensure development is appropriate to the location and maintain and enhance local identity and distinctiveness.

Highway Safety

39. The surrounding highway network features long sections of single lane highway and tall hedge boundaries and the existing access provides restricted visibility. Whilst there is some disagreement between parties as to the actual number of movements that would be attracted to the site, I note that the Highway Authority (HA) based their assessment on movements associated with the appellant's existing enterprise.

40. I acknowledge the lack of Personal Injury Collision records near the appeal site and given the likely associated traffic movements I find the proposal is unlikely to pose a severe impact upon the local highway network, and the HA have reached a similar finding. However, the existing visibility is restricted, and given the additional movements that would be attracted to the site, I find that the proposal would result in a highway safety concern for all users of the highway by vehicles accessing and egressing from the access. Nevertheless, access arrangements have been amended through the planning application process with an amended plan providing a realigned access creating a visibility splay, and the original access being blocked up.

41. An interested party has submitted to the Council a 'Traffic Objection Report' (TOR) dated May 2022 which questions the number of equine and vehicular movements and concludes, that the access does not meet required standards. The HA considered that notwithstanding the findings of the TOR, due to the nature and geometry of the highway in this location the visibility splays as submitted were acceptable, subject to the imposition of planning conditions.

42. Although I find from my own observations of the highway adjacent the site, including the width of carriageway, number of vehicular movements along the highway and speeds vehicles were travelling at the time of my visit, that the revised access would provide sufficient visibility for the vehicular movements likely to be attracted to the site, a 'Grampian' style condition has been suggested by the Council. This is in relation to the closing up of the original access, which would be required to ensure an access with adequate visibility is utilised. The PPG states that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. Furthermore, the PPG states Grampian conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

43. I am informed that an interested party has a legal right of way over the existing access and track and was told at the Hearing that no consent has been provided to block the right of way which has not been refuted by the appellant. Furthermore, concerns have been raised by interested parties, but refuted by the appellant, in relation to the ability to maintain the visibility splays in perpetuity. Notwithstanding, whilst rights of access and land ownership are a civil matter outside of the planning regime, matters such as a right of access

could prevent the closing up of the access, with no prospect of the appellant being able to fulfil the requirement of the condition.

44. I therefore find that the suggested Grampian style condition would not meet the tests of conditions as outlined within the Framework and PPG. A further condition was suggested by Mr Burgess at the Hearing which would require the submission of revised access plans and alternative arrangements to the stopping up of the existing access. Nonetheless, given I have found that the existing access would result in highway safety concerns, I am concerned that any planning permission granted might be negated by the lack of the ability to provide suitable access arrangements. Therefore, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
45. Consequently, the proposal would result in a harmful effect on highway safety, contrary to LP Policy DP9. This policy seeks, amongst other things, to ensure safe and satisfactory access. Furthermore, the proposal would be contrary to the provisions of the Framework which requires safe and suitable access for all users.

Other Matters

46. The Grade II listed Little West Barn Farm lies to the southeast of the appeal site. From my observations, in so far as they relate to this scheme, the setting of this heritage asset is the immediate surrounding area of the building, with the significance of this heritage asset arising from its age and architectural features. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the intervening railway line and separation distances involved, I find that the proposal would have a neutral effect on, and thereby preserve, the heritage asset.
47. The proposal would support rural business and rural employment in accordance with the general aims of the Framework. The proposal would also provide some employment opportunities and associated expenditure during the construction phase. However, any benefits to the rural economy and employment would be modest due to the relatively small scale of the business. I also heard from the appellants side at the Hearing the importance of the role of horses in society and the positive effect horses have on local communities and the wellbeing of people, as well as the benefits to school children and the ability to undertake work experience.
48. Nonetheless, some of these benefits already exist within the appellants existing enterprise which would be relocated, and therefore I can only give these matters minimal weight in favour of the proposal.
49. I acknowledge the site location within Flood Zone 1, the findings of the appellant's Ecological Appraisal and the discussions at the Hearing in relation to a borehole and the use of land for grazing, as well as my observations on site of the relationship between the proposal and neighbouring dwellings. In view of my findings on the main issues above, even if I were to find no harm in these matters, these matters would be neutral in the planning balance and would not lead me to any different overall conclusion.

50. Another planning permission¹ granted by the Council is cited by the appellant. I acknowledge that consistency in decision making is important, however I do not have full details of the factors that led to the granting of this other planning permission. It was said at the Hearing to be related to a racehorse training enterprise at a differing site and location. Therefore, it is materially different to the appeal scheme before me.

Conclusion

51. The proposal would conflict with the development plan, read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

S Harrington MA MRTPI

INSPECTOR

¹ 2020/1836/FUL

APPEARANCES

FOR THE APPELLANT:

Andrew Burgess	Planning Consultant
Caroline Martin	Architect
David Francis	Veterinary Surgeon
Maria Pritchard	Appellant
Tim Gardner	Surveyor

FOR THE LOCAL PLANNING AUTHORITY:

Anna Jotcham	Somerset Council
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INTERESTED PARTIES:

Matt Williams	Planning Consultant on behalf of Fiona Macintosh and Ian Peters
Ian Peters	Local resident
Alan Fox	Local resident
David Yeoman	Local resident
Julie Fuller	Local resident
Andrew Fuller	Local resident
Camilla Evans	Local resident
Harry Pritchard	Interested party
Maddy Ferrari	Parish Councillor and Local resident
Barry Clark	District Councillor
Philip Ham	District Councillor

DOCUMENTS submitted at the Hearing

- Additional suggested condition - Levels;
- Core Policy 1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 15 December 2014);
- Bore Hole Quote – Tor Drilling.

DOCUMENTS submitted following the Hearing

- Deed of Easement 8 April 2021;
- Deed of Easement 1st June 2022;
- Title Register - WS89809;
- Additional suggested condition – Access.



Costs Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Costs application in relation to Appeal Ref: APP/Q3305/W/23/3323827 Land accessed of Bindon Lane, Witham Friary, Frome

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Pritchard for a full award of costs against Somerset Council.
 - The appeal was against the refusal to grant planning permission for the change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage, 2 'American barns' associated parking, paths, muck heap & hard standing. Also installation of a mobile home to be occupied by the owners in association with the business.
-

Decision

1. The application for an award of costs is refused.

The submissions for Mr & Mrs Pritchard

2. The costs application was submitted in writing.

The response by Somerset Council

3. The response was made in writing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The PPG sets out that councils are at risk of an award of costs where they, amongst other matters:
 - prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - fail to produce evidence to substantiate each reason for refusal on appeal;
 - make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and
 - not determine similar cases in a consistent manner.

6. The applicant states that the appeal was unnecessary as the proposal complies with the development plan and was recommended for approval by the Council Case Officer. Furthermore, it is stated that the Council's Planning Board failed to carry out a planning balance correctly or fairly, or applied planning policies correctly and reasons for refusal are unsubstantiated.
7. Although officer recommendations were to grant permission in this case, local planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view on the effects of the proposal.
8. Reasons for refusal are clearly laid out and refer to relevant development plan policies. The reasons for refusal are a matter of judgement, whilst it is also clear from the second reason that the Council felt that there was insufficient evidence or information to demonstrate the essential need for permanent occupation of the site. Whilst I appreciate that the outcome of the planning application will have been a disappointment to the appellant, the local planning authority were not unreasonable in coming to that decision. Indeed, I note further information was supplied with the appeal, and notwithstanding this information, following consideration of the evidence on its merits alone, I have dismissed the appeal. As such, it follows that I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal. No unreasonable behaviour has been demonstrated in this regard.
9. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I consider that these circumstances arise in this case and therefore that the Council did not prevent or delay development which should clearly be permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Harrington

INSPECTOR

Application Reference	2022/0512/FUL
Site Address	The Willows, Glastonbury Road, Meare, Glastonbury
Applicant/Organisation	Mr T Moon
Application Type	Full Application
Proposal	Erection of a 3-bedroom dwelling.
Decision	Refusal (Delegated)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	20.10.2023



Appeal Decision

Site visit made on 19 September 2023

by **J White BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th October 2023

Appeal Ref: APP/Q3305/W/23/3318670

The Willows, Glastonbury Road, Meare, Glastonbury BA6 9SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Moon against the decision of Mendip District Council.
 - The application Ref 2022/0512/FUL, dated 11 March 2022, was refused by notice dated 22 September 2022.
 - The development proposed is erection of a 3-bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Mendip District Council has merged with other Councils into Somerset Unitary Authority, with the individual development plans remaining relevant. As Mendip District Council made the decision on the original application, I have referred to that name above.
3. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and I am satisfied that the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.
4. As part of the appeal, the appellant has submitted revised plans which were not before the Council when it determined the application. The revised plans include written dimensions to the highway and amendments to the roof plan to reflect drawing number S6189 120. The Council and interested parties have been able to comment on these plans as part of the appeal process, and I do not consider that the minor changes would materially alter the nature of the scheme or result in prejudice to any party. In these circumstances, I have taken the amended plans into consideration.
5. The Council refused the proposal for four reasons. The first reason concerns the effect on the integrity of the Somerset Levels and Moors Ramsar site, with particular reference to phosphate loading. Notwithstanding, as I am dismissing the appeal for other reasons, I will deal with this matter later in this decision, rather than as a main issue.

Main Issues

6. The main issues are the effect of the proposed development upon:
 - The character and appearance of the area;
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- The living conditions of occupiers of 6, 8 and 10 Glastonbury Road (Nos 6, 8 and 10) with particular regard to outlook and privacy; and,
- Surface water drainage in order to minimise flood risk and protect water quality.

Reasons

Character and appearance

7. The appeal site is located within the front garden of The Willows, which together with its neighbour, Linhay, have well-sized linear front gardens. The site lies within a predominately residential area towards the eastern extremity of the village. The surrounding area comprises a mix of different property types, including detached, semi-detached and terraced dwellings of varying ages. Despite the presence of dwellings either side of The Willows and Linhay, which are typically arranged perpendicular and close to the road, the properties in the locality are mainly set back from and face onto Glastonbury Road. These are set within large plots, giving the area a pleasant spacious and open feel. Properties are generally punctuated by small gaps that help define the varied architectural form and scale of buildings found in the area.
8. Even though there is a varied building line, the siting of the proposed dwelling in front of the Willows and within its front garden would be incongruous in the vicinity, where no comparable examples of such development exist. Whilst there are dwellings which lie close to the road, the spacious quality created by the front garden of the appeal site is conspicuous from the highway and maintains the prevailing pattern of development. The plot size of the proposed dwelling would consequently be disproportionately small when compared with the predominant pattern and rhythm of development along the road frontage. The proposal would therefore introduce substantial built form in front of The Willows, which would provide a cramped aspect within views from the road and from neighbouring dwellings.
9. As a result of these factors the development would be out of keeping with the area's prevailing settlement pattern and would erode the distinctive spacious and open feel. Whilst I note the appellant's explanation that the proposal would use similar design features and materials to those of surrounding dwellings, this would not overcome the harm I have identified, which arise from the proposal's location and plot size.
10. For these reasons, I conclude on this main issue that the proposal would cause harm to the character and appearance of the area. As such, the appeal scheme would be in conflict with Policies DP1 and DP7 of the Mendip District Local Plan 2006-2029 (adopted 2014) (the MDLP), which amongst other things, require development to positively contribute to the maintenance and enhancement of local identity and support high quality design that is of a scale, mass, form and layout appropriate to the local context. The proposal would also conflict with the provisions under Chapter 12 of the Framework in relation to achieving well-designed places.
11. My attention has been drawn to the National Design Guide. However, for the above reasons, the development would also be inconsistent with the overarching design principles of the National Design Guide.

Living conditions

12. The properties of Nos 6, 8 and 10 lie to the northern side. These are a row of three two-storey terraced dwellings that have a common boundary with the appeal site. Due to the presence of gardens either side and at the appeal site, the rear elevation of the terrace of dwellings and their garden spaces have a sense of openness.
13. I noticed during my site visit that the boundary of the appeal site with Nos 8 and 10 comprised a timber panel fence, and the boundary with No 6 was predominately a chain-link fence. Each of these neighbours has first floor windows with an outlook toward the appeal site, as well as over the neighbouring gardens. There is already a mutual degree of overlooking between the residential properties, which is common within many more built up areas.
14. Even though the proposed dwelling would be lower in height than the terraced dwellings, it would be positioned in close proximity to the rear elevations and common boundary, particularly in relation to No 8. Notwithstanding the intervening boundary treatments and the presence of some vegetation, due to the proximity and scale of the proposal, it would be noticeable in rear views from these dwellings. Further, as the proposed dwelling would extend along a large proportion of the shared boundary with No 8 and be in close proximity to its rear elevation, the proposal would be significant in terms of creating a dominant and obtrusive development in relation to that property. This would result in an undue sense of enclosure causing significant harm to neighbouring occupiers living conditions of No 8 with particular regard to outlook.
15. Notwithstanding, due to the proposed position of the dwelling, which would be at an angle to Nos 6 and 10, and where there would be a greater sense of separation compared with No 8, the proposal would not harm the outlook of Nos 6 and 10.
16. The proposed dwelling would be placed to face Glastonbury Road and would not have any windows within its side elevation towards Nos 6, 8 and 10. The rear dormer window would be positioned centrally within the roof slope, serve a bathroom and would be obscured glazed. The dormer windows to the front would be oblique to the terraced dwellings and would be unlikely to give rise to a greater degree of overlooking than at present. Consequently, the appeal scheme would not result in a significant degree of overlooking and would not significantly impact on the privacy of the occupiers of Nos 6, 8 and 10.
17. Nonetheless, I conclude that the proposal would have a significant harmful effect on the living conditions of occupiers of No 8 with particular regard to outlook. Therefore, with regard to this main issue, there would be conflict with Policy DP7 of the MDLP, which amongst other things, seeks to protect the amenity of users of neighbouring buildings and land uses.
18. The appeal scheme would also be contrary to the guidance contained in the Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022), which amongst other things seeks to ensure the amenity of current and new occupiers is protected. For similar reasons, the proposal would conflict with the provisions under Chapter 12 of the Framework in relation to creating places that promote health and well-being, with a high standard of amenity for existing and future users.

19. In its reason for refusal the Council has also referred to MDLP Policy DP8. However, as this policy covers broader principles for environmental protection, it is not determinative for this main issue.

Surface water drainage

20. The site is located within Flood Zone 1, which based on the Environment Agency's definition is land having a less than 1 in 1000 annual probability of river or sea flooding. MDLP Policy DP23 requires development proposals to incorporate appropriate water management measures to reduce surface water run-off and ensure that it does not increase flood risk elsewhere. MDLP Policy DP8 requires that development does not give rise to unacceptable adverse environmental impacts on the quality of water resources.
21. The site is categorised by the Council as having a very low risk of surface water flooding and the submitted details propose that a soakaway would be used to manage surface water. However, the Land Drainage Engineer has identified that the soils mapping indicates that the site lies within an area of loamy and clayey floodplain soils with a naturally high groundwater.
22. In that context, there is little substantive evidence to demonstrate that the soil conditions on the site are suitable for infiltration or that the area is unlikely to have a variable flood risk. I acknowledge the appellant's comments regarding the proportionate nature of providing specific surface water drainage details, however, given the provisions of the policies set out above, it is necessary for appropriate provision for surface water drainage to be evidenced.
23. Therefore, concerns remain and relate to lack of evidence demonstrating that infiltration is feasible in the context of the appeal scheme and likely ground water levels. As such, the feasibility of the proposal's surface water drainage solution is unproven, and on the balance of probabilities the risk of surface water flooding persists.
24. There is a need to consider the use of planning conditions that might otherwise make the proposal acceptable. However, it would not be appropriate to condition matters that are fundamental to determining whether something is feasible or not. This is because there would be too much uncertainty about whether the condition could ever be complied with, or whether the planning permission could ever be implemented.
25. Very limited information has been provided in respect of surface water drainage to satisfactorily demonstrate that the proposed development could meet the requirements of MDLP Policy DP23.
26. Consequently, with regard to this main issue, I am not satisfied that the proposal would comply with Policies DP23 and DP8 of the MDLP which, in summary, seeks to ensure that development proposals do not increase the risk of flooding or harm the quality of water resources. This is consistent with the objectives of the Framework insofar as flood risk is concerned.

Other Matters

27. The proposed dwelling would fall within the catchment flowing into the Somerset Levels and Moors Ramsar site, an inland wetland which provides important habitat for rare aquatic invertebrates. There is a known issue with nutrients entering the watercourses and adversely affecting environmental

conditions for these species. Any new housing development will result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavourable' condition, any increase including from single dwellings, is seen as significant either alone or in combination with other developments. Habitats Regulations Assessment (HRA) would therefore be required prior to any grant of planning permission. However, given my overall conclusion, whilst I acknowledge that the appellant has suggested a pre-commencement condition, there is no need to consider the implications upon the Ramsar site because the scheme is unacceptable for other reasons.

28. The fact that the site is not within a conservation area, or the curtilage of a listed building does not undermine the value of the character and appearance of the area. I acknowledge the appellant's view that the proposal would provide a family home with good living conditions. However, the benefits are limited by the scale of the proposal and, accordingly, are of limited weight.

Planning Balance

29. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
30. There would be benefits with the construction of a dwelling in a village location with good access to facilities and services to serve the day to day needs of prospective residents. Given only one dwelling is proposed, the contribution would be limited, and I give this factor modest weight. There would be benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Nevertheless, as construction benefits would be short term, and given the scale of the proposal, these factors attract little weight.
31. The proposal would significantly harm the character and appearance of the area and living conditions of the occupiers of No 8. Further there is insufficient evidence to demonstrate that the proposal would not lead to an increase in the risk of flooding. The Framework advises that development should not increase flood risk and that the creation of high-quality buildings and places is fundamental to what the planning process should achieve. It also states that developments should be sympathetic to local character and provide a high standard of amenity for existing users. Paragraph 219 of the Framework is clear that the weight to be given to local policies depends on their consistency with the Framework.
32. The proposed development would conflict with Policies DP1, DP7, DP8 and DP23 of the development plan and it as a whole. I give conflict with these policies substantial weight as they are generally consistent with the Framework.
33. The Council accepts that it is not possible to demonstrate a five-year housing land supply at present. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11d)i. Therefore, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged.

34. The proposal would align with the aims of the Framework to significantly boost the supply of housing and that small-scale developments can make an important contribution to meeting the housing requirement and different types of need (paragraphs 60 and 69). As the proposal is for one dwelling, there would be modest benefit.
35. There would be economic and social benefits from the build and occupation of the dwelling as well as support for local services, facilities and the community. Such benefits would be minimal given the size of the development, and I give each limited weight. A finding of no harm in relation to living conditions of occupiers of Nos 6 and 10 weighs neither for nor against the appeal scheme.
36. Despite the acknowledged benefits identified by the appellant, the scheme would cause significant harm to the character and appearance of the area and living conditions of the occupiers of No 8. There is insufficient evidence to demonstrate that the proposal would not lead to an increase in the risk of flooding. These are harms which attract considerable weight respectively and would outweigh the benefits of the proposal. The appeal scheme would be contrary to the Framework where it seeks to ensure proposals are sympathetic to local character and provide a high standard of amenity for existing and future users (paragraph 130) and seeks to ensure flood risk is not increased elsewhere (paragraph 167).
37. Overall, having considered the above factors, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Conclusion

38. For the reasons given above, the scheme would conflict with the development plan and the Framework when considered as a whole. There are no material planning considerations identified, individually or cumulatively, which are of such weight to indicate a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be dismissed.

J White

INSPECTOR