

**APPEAL DECISIONS****PLANNING COMMITTEE WEST****WEDNESDAY 1 MAY 2024**

<b>Application No:</b>	05/22/0013
<b>Address:</b>	ROUGHMOOR FARM, ROUGHMOOR LANE, BISHOPS HULL, TAUNTON, TA1 5AA
<b>Description:</b>	Erection of 1 No. dwelling with associated works in the garden to the side of Roughmoor Farm, Roughmoor Lane, Bishops Hull
<b>Application Decision:</b>	Delegated
<b>Appeal Decision:</b>	Dismissed

**The Planning Inspectorate**

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## **Appeal Decision**

Site visit made on 5 March 2024 by **S Leonard BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 April 2024**

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**Appeal Ref: APP/E3335/W/23/3330210 Roughmoor Farm, Roughmoor Lane, Bishops Hull, Taunton, Somerset TA1 5AA**

- 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 Mark and Gillian Richmond against the decision of Somerset Council.
- The application Ref 05/22/0024, dated 22 July 2022, was refused by notice dated 27 July 2023.

- The development proposed is described as “single storey low impact carbon positive house to be built within the garden curtilage of our existing house. New sewage treatment plant to provide nutrient neutrality for 5 existing dwellings”.
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## **Decision**

1. The appeal is dismissed.

## **Procedural Matters**

2. The appeal site lies within the catchment area of the Somerset Levels and Moors Ramsar Site, where additional phosphates reaching the ground and the watercourse arising from new residential development have the potential to adversely affect the integrity of this European Site. Since the appeal submission, the Council has confirmed that this matter should have comprised an additional reason for refusal, but that this was omitted due to an administrative error.
3. Whilst not comprising a reason for refusal, within the context of this appeal the responsibility for assessing the effects of the proposal on the European Site falls to me as the competent authority. This is a matter to which I later return.
4. Since the refusal of the application, the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published in December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.

## **Main Issues**

5. The main issues are whether the site is a suitable location for the appeal scheme having regard to:
  - (a) the character and appearance of the area; and
  - (b) the potential for future occupants to access services and facilities through means other than by use of cars.

## **Reasons**

### *Character and appearance*

6. The site is located at the eastern end of a private road leading off from Silk Mills Lane. It is within the grounds of a 2-storey Grade II dwelling known as Roughmoor Farmhouse, which is sited east of the appeal site and abuts the street. A vehicular access is located between the house and the appeal site. There are several ancillary outbuildings and structures associated with the domestic use of the wider site, and an additional vehicular access at the eastern end of the road.
7. The appeal site lies within open countryside which forms part of a designated Green Wedge around the Taunton urban fringe. Moreover, the Council has

confirmed that the site falls within a designated Local Wildlife Site, described as a “lawn with important grassland fungi”.

8. The supporting text to Policy CP8 of the *Taunton Deane Adopted Core Strategy 2011-2028* (September 2012) (the Core Strategy) sets out the key policy objectives of Green Wedges. These include preventing the coalescence of settlements and maintaining a sense of place and identity for neighbourhoods, maintaining the open character of a green lung contributing to health and wellbeing for residents, bringing the countryside into the heart of town and providing valuable wildlife corridors and habitat.
9. As such, openness and a lack of built development are defining features of Green Wedges, which serve to retain open land between existing built-up urban areas of Taunton. Core Strategy Policy CP8 seeks to ensure that new development is strictly controlled in these areas to conserve the environmental assets and the open character of the area. Accordingly, in principle, the redevelopment of this land with a dwelling would be contrary to the aforesaid aims of Policy CP8.
10. The private road access to the site is narrow and single width. It has no street lighting or pavements and is lined with trees and mature hedging along both sides. These characteristics, together with its no-through nature and low volume of passing traffic, give the road a tranquil rural character. It is a Public Right of Way, whose hard surfacing terminates adjacent to the appeal site, where it links with other footpaths leading into the surrounding countryside. This includes a path leading into the Silk Mills Local Nature Reserve to the north.
11. Built residential development is limited to the southern side of the road, with the host property at the eastern most end and a group of properties which also front onto Silk Mills Lane, at its western end. Roughmoor Farm and these dwellings comprise sporadic elements of built development within the wider and largely undeveloped and agrarian Green Wedge area.
12. Whilst there is a Park and Ride facility to the north of the access road, this lies outside the Green Wedge. It is separated from, and well screened in views from, the access lane by mature trees and vegetation. As such, it is not visually apparent in views from the lane.
13. Notwithstanding its inclusion within the wider grounds of the host residential property, the appeal site is largely given over to grass, shrubs and small trees and a poultry feeding area. It has a more undeveloped rural character than most of the remainder of the land within the existing curtilage of the farmhouse and the only structures are a small shed and a log store which are akin to small rural outbuildings in their materials and design.
14. The predominantly green and undeveloped nature of the appeal site, together with its position surrounded by open verdant land on the opposite side of the road and to the west, and an orchard to the south, means that, visually, it is perceived as being well-assimilated into the open countryside. Its rural nature is further compounded by mature hedging across its road frontage which screens it in views

from the lane, and some hedging and trees along its western boundary with neighbouring open fields.

15. The existing vehicular access to the west of the farmhouse, together with several trees, which indicate the historic western boundary of the farmhouse garden prior to the inclusion of the appeal site, serve to reinforce a sense of separation of the appeal site from the host property.
16. These trees include two mature frontage trees which provide verdant screening of the farmhouse in views when approaching from the west along the access lane, and they further serve to act as a visual divide between the host property and the appeal site.
17. Accordingly, I find that the appeal site makes a positive contribution to this part of the Green Wedge countryside which separates the urban areas of Bishops Hull to the south and Norton Fitzwarren and Staplegrove to the north, and predominantly comprises farmland, meadows, a local nature wildlife reserve and floodplain land adjacent to the River Tone. Within this wider green area, Roughmoor Farmhouse and its associated outbuildings, constitute an isolated built enclave.
18. Notwithstanding its single storey low height, the appeal scheme would involve a significant increase in built development upon the site. The proposed 3-bedroom dwelling, incorporating a workshop, together with the proposed new vehicular access, driveway and parking area to the front of the property, and paved courtyard to the rear, would result in a very large amount of the site being given over to built development and hard surfacing. This would significantly erode the openness of this part of the designated Green Wedge.
19. Moreover, the resulting urbanising impact on the site would be compounded by inevitable domestic paraphernalia and ancillary structures associated with the use of the site as an independent residential unit, such as outbuildings, decking, access and footpath areas, garden furniture, pergolas, and outdoor lighting, as well as the increased comings and goings associated with the ongoing occupation of the new dwelling. This would be to the detriment of the existing intrinsic rural character of the site.
20. The proposed stand-alone layout of the new dwelling, having an independent vehicular access and parking and being set back from the road and sited in a position which is distinctly separate from the existing buildings, would constitute a sprawling layout of built development westwards along the lane. This would harmfully erode the existing verdant gap between the isolated group of buildings at Roughmoor Farm and built development at the western end of the lane, thereby significantly reducing the openness and rural character of this part of the Green Wedge. These harmful urbanising impacts would be exacerbated by the proposed loss of historic frontage hedging which would open up the site and the new built development to views from the public footpath.
21. The above harmful impacts on the openness of the Green Wedge and the rural character of the site would not be satisfactorily mitigated by the proposed retention of existing trees and hedges and the planting of additional boundary landscaping.

This would not address the harm to the intrinsic landscape character of the locality. Moreover, the subsequent retention of existing hedging, notably the frontage hedging, could not be guaranteed in the future. Nor is it appropriate to rely upon the implementation of sufficiently high landscaping to screen new built development which is inappropriate within its surroundings.

22. My attention has been drawn to an approved development of 2 dwellings<sup>1</sup> at the western end of the access road. The Council has confirmed that, whilst that site also lies within the designated Green Wedge, an error by the Council at the time of determination of the application meant that the Council's decision was based upon the assumption that the site was outside of the Green Wedge. As such, I am not persuaded, based on the information before me, that this approval justifies allowing the appeal scheme, which I must consider having regard to the relevant development plan policies and the merits of the scheme before me and the circumstances of the appeal site.
23. For the above reasons, I therefore conclude that the proposal would have a materially harmful impact on the character and appearance of the area, and that the site would not represent a suitable location for the appeal scheme in this regard. As such, the proposal would be contrary to Policies SD1, DM2, CP1 and CP8 of the Core Strategy and Policy SB1 of the *Taunton Deane Adopted Site Allocations and Development Management Plan (2016)* (the SADMP).
24. These policies, amongst other things, seek to ensure that new developments accord with the presumption in favour of sustainable development contained within the Framework, and protect, conserve or enhance landscape character and the intrinsic character of the open countryside. This includes protecting the settings of towns, whilst maintaining green wedges and open breaks between settlements, and ensuring that development outside of the settlement boundaries is designed and sited to minimise landscape and other impacts.
25. For similar reasons, the proposal would be contrary to policies of the Framework which seek to achieve well-designed places and the conservation and enhancement of the natural environment, as set out in Chapters 12 and 15 respectively.

#### *Access to services and facilities*

26. Roughmoor Farm comprises an isolated residential site within open countryside forming rural surroundings to Taunton conurbation. Having regard to the information before me from both parties, the closest local convenience facilities at Bindon Road, comprising a shop, pharmacy, hairdresser, hot food takeaway and ATM, are located approximately 1.4km from the site. This distance exceeds

the widely accepted<sup>2</sup> convenient walking distance to facilities and services of 10min (circa. 800m). Moreover, there is no local bus service to conveniently connect them to the appeal site.

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<sup>1</sup> LPA Ref 05/18/0057

<sup>2</sup> *Walking For Everyone* Living Streets, Arup and Sustrans (2022)

27. In addition, the nearest primary and secondary schools are about 1.2km and 1.7km respectively, the closest doctor's surgery is about 1.2km away, and medical centre is 2.2km from the site.
28. I acknowledge that accessibility of sites in rural areas differs from that which are reasonable for urban areas. However, I consider that it would be reasonable to expect a number of facilities and services to be located within a 10-minute walking zone from the appeal site. In the case of the appeal scheme, there is no evidence before me that there are any facilities and services located within this zone.
29. In addition, to the distances from the appeal site, I have also considered the convenience, safety and attractiveness of alternative means of travel to access facilities and services. When walking from the appeal site, the initial part of the journey would necessitate walking along unlit and unpaved public footpaths, including westwards along the access lane to Silk Mills Lane, or northwards and eastwards to access the off-road network of countryside footpaths which also enable access to the urban area. Such conditions are not conducive to walking during poor weather and outside of daylight hours.
30. Notwithstanding that cycling could be a viable alternative, the likelihood of this mode of travel decreases during inclement weather and hours of darkness. As such, I consider that future occupiers of the proposed dwelling, which given the size and single storey design of the dwelling, could potentially include the elderly, children and those with mobility issues, would be heavily reliant on the use of the private motor vehicle to gain access to the most basic of services.
31. I acknowledge that the nearby Park and Ride service provides an alternative good and regular connection to town centre facilities, services and employment as well as to the Musgrove Hospital. However, the information before me is that the hours of operation are restricted to between 06:45 outward and 19:27 return from Monday to Friday and 08:35 and 17:55 respectively on Saturdays. There is no Sunday service. These timetable limitations would result in a significant gap in service provision at times when access to facilities and services would reasonably be expected to be required.
32. This, together with a lack of bus stops serving alternative routes within easy walking distance of the site and the aforesaid inconvenience associated with footpath access to the Park and Ride site, would serve to encourage future residents to be reliant upon private car travel for a significant amount of their day-to-day travel for services, community facilities and employment.
33. For the above reasons, I therefore conclude that the proposal would not represent a suitable location for the appeal scheme, having regard to the potential for future occupants to access services and facilities through means other than by use of cars. As such, the proposal would be contrary to Core Strategy Policies SD1, SP1, CP1, CP6 and DM2 and Policies A5 and SB1 of the SADMP.
34. These policies, amongst other things, seek to ensure that new developments are focussed on the most accessible and sustainable locations, contribute to reducing

the need to travel, and improve accessibility to jobs, services and community facilities. This includes requiring residential development to be within walking distance of, or have access by public transport to, employment, convenience and comparison shopping, primary and secondary education, primary and secondary health care, leisure and other essential facilities.

35. These policies are consistent with the sustainable development and housing aims of the Framework.

### **Other Matters**

36. Notwithstanding that the Council omitted to include this matter within its reasons for refusal, within the context of the appeal, the responsibility for assessing the effects of the proposal on the European designated site of the Somerset Levels and Moors Ramsar Site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, by seeking further comments from the main parties and Natural England. I would also need to undertake an Appropriate Assessment of the implications of the appeal scheme for the European designated site.
37. However, as the main issues provide clear reasons for dismissing the appeal, the outcome of any such Appropriate Assessment would have no bearing on the overall outcome of this appeal. There is, therefore, no need for me to consider this matter any further as part of my decision.
38. Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act), I am, as the decision maker, required to consider the effects of the development on the designated heritage asset of the Grade II listed host property known as Roughmoor Farmhouse.
39. In determining the application, following amendments to the originally submitted scheme, the Council has not found any harm to the significance and setting of the listed building, which is sited to the east of the appeal site. Based upon the evidence before me, which includes my site visit and consideration of the separation distance between the appeal proposal and the listed building, together with the intervening mature trees, and the detailed design of the new dwelling and its subservient scale and height in relation to the listed building, I have no reason to disagree with the Council in respect of this matter.
40. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well. It would contribute towards the Council's housing supply, and it could be built out relatively quickly, having regard to paragraph 70 of the Framework. However, by providing one additional dwelling only, the contribution would be very modest.
41. There would also be modest short term economic benefits as a result of the construction of the development, and longer term economic and social benefits from the occupation of the new dwelling.

42. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, this is not unqualified, and would not address, or outweigh, the aforementioned harm that I have identified in respect of the main issues.
43. The Council has raised no objections to the appeal scheme in respect of matters including the detailed design of the building, the impact on the setting of the listed farmhouse, neighbouring living conditions, highway safety and parking, on-site biodiversity and flood risk. The lack of identified harm is a neutral factor that does not diminish the significant harm that would arise from the proposal in respect of the two main issues.
44. The appellants propose to incorporate sustainable design, ecological and landscape enhancements into the scheme. Since these are requirements of the development plan and the Framework in any case, these factors do not justify the aforesaid harm I have identified.
45. The appellants have stated the intention to provide a self-build home for their occupation. There is positive support for the provision of such units in national policy, and this weighs in favour of the scheme. However, the weight I attach to this is significantly diminished by the absence of a legal agreement or other mechanism before me to secure the delivery of the proposal as a self-build unit.
46. The proposed replacement of an existing septic tank with a new sewage Package Treatment Plant, to serve the proposal and existing residential units at Roughmoor Farm, would comprise a benefit in respect of the integrity of the Somerset Levels and Moors Ramsar Site. Moreover, I note that the appellants have confirmed that they are willing to accept a Grampian planning condition to ensure that this is provided prior to the commencement of development and have obtained permission from a third party for the use of his land for this purpose.
47. However, and notwithstanding that there is no need for me to carry out an AA in respect of this appeal, ensuring that a planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what mitigation is being agreed. There is no legally binding agreement before me. Moreover, the Planning Practice Guidance (PPG) advises that a negatively worded condition limiting development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in most cases.
48. Although the PPG advises that a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk, this would only apply in exceptional circumstances. For example, this may apply in the case of a particularly complex scheme, which I do not consider the appeal proposal to be.
49. I acknowledge that the need to mitigate against the adverse effect of nutrients may provide a challenge to the delivery of housing in the area. However, in the context of a general need to comply with the Habitats Regulations, there is nothing



uniquely exceptional in this. Exceptional circumstances which might justify use of such a condition do not therefore exist.

50. As such, in the absence of a legal agreement to secure and thereafter retain a satisfactory phosphate mitigation scheme, I am unable to attach any more than limited weight to this aspect of the scheme and it does not justify or outweigh the harm that I have identified in respect of the main issues.
51. The appellants have referred to the Council's procedures during the determination of the planning application, in respect of its consideration of the appellants' proposed mitigation measures. This is not a matter for consideration as part of this appeal, which I have determined on the merits of the proposal before me.

### **Conclusion**

52. The proposed development would conflict with the adopted development plan when considered as a whole, and there are no material considerations, including the Framework, that indicate that the proposal should be determined other than in accordance with the development plan.
53. For the reasons given above, I therefore conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR