
Appeal Decision

Site visit made on 13 October 2025

by **Alison Fish BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 December 2025

Appeal Ref: APP/D0121/W/25/3365348

Police Maintenance Depot, Stuart Road, Weston-Super-Mare BS23 3XN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs K Eulenkamp of Stonewater against the decision of North Somerset Council.
 - The application Ref is 24/P/0865/FUL.
 - The development proposed is demolition of existing buildings and development of 39 houses with associated roads and parking.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and development of 39 houses with associated roads and parking at Police Maintenance Depot, Stuart Road, Weston-Super-Mare BS23 3XN in accordance with the terms of the application, Ref 24/P/0865/FUL, and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matters

2. A Unilateral Undertaking (the UU) dated 26 August 2025, made under section 106 of the Town and Country Planning Act 1990, was submitted during the appeal. I have had regard to it in my consideration and determination of the appeal.
3. There is no dispute between the main parties that the draft local plan covering the period 2025-2040 can be afforded very limited weight. From the evidence before me and having regard to Paragraph 49 of the National Planning Policy Framework (the Framework), I see no reason to disagree.

Background and Main Issues

4. The Council refused planning permission for three reasons. Namely that the proposal failed the Sequential Test in relation to flood risk, that wider sustainability benefits did not outweigh the harm identified from flood risk and that the proposal would result in the loss of protected trees to the detriment of the character and biodiversity value of the area.
5. However, in advance of the scheduled hearing, the Council confirmed that it would not seek to defend its reasons for refusal. I have therefore dealt with this appeal on the basis of the written submissions. Nevertheless, third parties raised objections to the proposal, amongst other things, in respect of flood risk and the loss of trees and therefore I have considered these below.
6. Therefore, the main issues are:

- whether the appeal proposal would be at risk of flooding or increase the risk of flooding elsewhere;
- whether the appeal proposal would harm the character and biodiversity value of the area as a result of the loss of protected trees; and
- If harm is found, whether there are other considerations which outweigh any identified harm.

Reasons

Flood Risk

7. Part of the appeal site is located on land which falls in Flood Zone 3a with a high risk of flooding from tidal sources.
8. Policy CS3 of the North Somerset Council Core Strategy, adopted January 2017 (Core Strategy) and Government advice in the Framework seek to steer development away from areas at the highest risk of flooding. This is done through the application of the sequential test, whereby sites with the lowest risk of flooding should be developed in favour of those at a higher risk.
9. The appellant's Sequential Test¹ reviews possible alternative sites in Weston-Super-Mare and concludes that none are sequentially preferable. However, the Council reject the conclusions of the appellant's Sequential Test and highlight 4 particular sites which they say would be sequentially preferable and reasonably available.
10. Paragraph 174 of the Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. No substantive evidence was provided by the appellant at appeal stage to refute the Council's arguments. In the absence of evidence to the contrary, I conclude that the proposal fails the sequential test.
11. Proposals which fail the sequential test are not subject to the exception test. That said, the Flood Risk Assessment and Drainage Strategy² includes flood mitigation measures, and a flood warning and evacuation plan. There is no dispute between the main parties that together, these demonstrate that the development would be safe for its lifetime taking account of the vulnerability of its users, and that flood risk would not be increased elsewhere.
12. Therefore, whilst the proposal fails the sequential test and conflict with Policy CS3 of the Core Strategy would arise, I am satisfied that development on the appeal site can be made safe for its lifetime without increasing the flood risk elsewhere. I will return to this later.

Trees and biodiversity

13. The appeal site is located in an urban setting. As a result, the trees on site, particularly those making up the woodland, are a notable feature of the area and subject to tree preservation orders (TPO). In addition, whilst the preliminary Ecological Appraisal³ found that the site had a low ecological value and that its

¹ Consisting of the Sequential and Exception Test by True Consulting Engineers dated October 2023 and the Sequential Test Addendum by LAH Design dated November 2024

² By True Consulting dated December 2023

³ Carried out by Brynley Andrews Associates dated February 2024

habitats were of low quality, the trees provide nesting and foraging areas principally for birds.

14. Whilst it is proposed to retain the individual trees which are the subject of a TPO⁴, the majority of the trees within the woodland TPO⁵ would be felled.
15. The appellant's Arboricultural Impact Assessment⁶ concludes that the proposal to fell 45 of the trees currently on site would have a substantial negative impact on the existing tree cover for the site and I see no reason to depart from this view.
16. Whilst the highest quality trees, assessed as grade A and B, would largely be retained and it would be possible to mitigate some of the loss through new planting, these would take time to establish. The proposed layout would also result in future pressure from occupiers of the dwellings to carry out works to the trees.
17. Consequently, the proposed development would be harmful to a number of protected trees, to the detriment of the character and biodiversity of the area. This would be contrary to Policies CS4, CS9 and CS12 of the Core Strategy and Policies DM8, DM9 and DM32 of the North Somerset Sites and Policies Plan (Part 1) which seek high quality design and placemaking through the safeguarding and enhancement of biodiversity and the protection of trees.

Other considerations

18. The Council's housing land supply sits at 2.79 years. This is a significant shortfall at a time when the Government are seeking to significantly boost the supply of homes. 39 homes would make a moderate contribution towards supply and given the shortfall, this attracts significant weight.
19. The appeal site is located in a main town with options to reach services and facilities without the use of the private car. It is also currently vacant and Paragraph 125 of the Framework requires that I give substantial weight to the value of using suitable brownfield land within settlements for homes. It goes on to state that such proposals should be approved unless substantial harm would be caused. It also lends support to appropriate opportunities to remediate derelict and contaminated land and in this instance, this could be secured by conditions. Together, these factors attract substantial weight.
20. There would be economic benefits arising from the construction and occupation of the dwellings which attracts moderate weight.
21. Policy-compliant provision of electric car charging points, cycle storage, open space, planting and biodiversity net gain (BNG) are neutral factors.
22. In the event that planning permission were to be granted and implemented, the UU would secure a 10% off-site biodiversity net gain (BNG) and a financial contribution towards the provision of fire hydrants within the development.
23. With regards to affordable housing, the UU requires the submission of 'Affordable Housing Plans' to be submitted for the Council's approval, in accordance with the details set out in Table 1 of the Schedule to the UU. On this basis, I am satisfied that the Council would retain sufficient control over the quantity, location and tenure

⁴ T1-T4 inclusive of TPO 1042

⁵ W1 of TPO 1042

⁶ By Brynley Andrews Associates dated March 2024

of the affordable housing. Paragraph 3.1 of the UU requires that the affordable housing units must only be occupied as affordable housing. I am satisfied therefore that affordable housing provided on site would be secured in the long term.

24. Whilst I understand that the appeal scheme is being promoted by a Registered Provider and that the intention is to provide 100% affordable housing, the UU does not secure this. Indeed, the 'Affordable Housing Requirement' calculation allows for a vacant building credit discount which the Council says could result in no affordable housing required. Given that there are a number of existing buildings on the site, I concur with this. I can therefore attach no more than moderate weight to the provision of affordable housing which I return to in the planning balance.
25. Notwithstanding this, I have considered the planning obligations of the UU in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and Government policy and guidance on the use of planning obligations. The Council has submitted a Planning Obligations Compliance Statement dated August 2025 (the Compliance Statement), which addresses the application of statutory requirements to the planning obligations within the UU and sets out the relevant planning policy support and justification.
26. I am satisfied that those obligations would be required by and accord with the policies set out in the Compliance Statement. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

Other Matters

27. The appeal site falls within Consultation Zone C of the North Somerset and Mendip Bats Special Area of Conservation (Protected Site) as set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document, adopted January 2018 (SPD). However, a likely impact on the Protected Site was screened out as the site was considered unlikely to support horseshoe bats. Natural England have confirmed this to be the case. As the competent authority I am satisfied that there would be no adverse effect on the integrity of the Protected Site.
28. The appellant submits that there would be a total of 21 two way journeys in the peak hours. This level of traffic is unlikely to have any significant impact on the overall levels of traffic on the network, particularly given the number of trips associated with the former use of the building. A road safety audit would be secured by a condition given the close proximity of the access to the Winterstoke Road junction. Traffic and disruption to existing residents during the construction period could be adequately controlled through a condition to secure a construction method statement.
29. The proposal would result in the loss of employment land but there is no substantive evidence that there is a particular shortage in the district. There is also no indication from statutory consultees that the appeal proposal would lead to excessive pressure on local services.
30. The Council has not raised concerns about overdevelopment of the site and from all that I have seen and read, I see no reason to depart from this view. The living conditions of existing residents would be preserved through suitable conditions relating to obscure glazing to a window and boundary treatments.

31. An existing rodent issue is not a matter for this appeal.

Planning Balance

32. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004. The Framework is an important material consideration. As set out above, the Council cannot demonstrate a five-year supply of housing land. Therefore, Paragraph 11d of the Framework is engaged.
33. The appeal proposal fails the sequential test, and this counts significantly against the proposal. However, it has been demonstrated that development on the appeal site can be mitigated to the extent that it could be made safe for its lifetime without increasing the flood risk elsewhere and this could be secured by conditions requiring a surface water drainage scheme, flood resilient building measures and a flood emergency evacuation plan. As a result, this does not provide a strong reason for refusal in this instance and Paragraph 11dii of the Framework is engaged.
34. The failure to comply with the sequential test and the effect of the development on protected trees count against the proposal and there are neutral factors which weigh neither for nor against the proposal.
35. The extent of affordable housing provision is unclear and therefore I can only attach moderate weight to it.
36. However, the provision of 39 dwellings on brownfield land within a settlement, together with the necessary remediation of the land, attracts substantial weight in this instance. It therefore follows that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits of the scheme. Accordingly, the Framework indicates that the proposal should be determined otherwise than in accordance with the development plan.

Conditions

37. A list of conditions, including pre-commencement conditions, have been agreed by the main parties⁷. I have considered all the suggested conditions and imposed them where they meet the tests set out in Paragraph 57 of the Framework, amending where necessary for the sake of simplicity, clarity and precision. I have only imposed pre-commencement conditions where it is necessary to ensure that appropriate controls are in place before development commences.
38. In addition to the conditions I have already referred to above and to the standard time limit, it is necessary to specify the approved plans in the interest of certainty. For this reason, a condition requiring that the finished ground, floor and roof height levels do not exceed those shown on the approved plans is unnecessary.
39. Conditions to protect existing trees and ecology are necessary in the interest of biodiversity, as is a condition to control external lighting. Securing details of the materials to be used in the construction of the development and facilities for the storage and collection of waste are necessary in the interests of the character and appearance of the area.

⁷ And provided within the Statement of Common Ground.

40. Conditions requiring the provision of access, parking and cycle storage are necessary in the interest of highway safety and to encourage sustainable transport choices.
41. It is not necessary to attach a condition in respect of BNG as this has been secured in the UU. A condition relating to noise is not necessary as the Council's officer report confirms that potential noise from commercial and industrial uses nearby and traffic on Winterstoke Road could be adequately mitigated by the erection of fencing, and condition 18 requires its provision.

Conclusion

42. The proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal should succeed.

Alison Fish

INSPECTOR

Richborough

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing numbers:

5073 001 – Location Plan
5073 003 Rev B - Proposed Site Plan
5073 004 Rev A - Units 1&2 Plans and Elevations
5073 005 Rev A – Units 3-5 Plans and Elevations
5073 007 Rev A – Units 6-9 Plans
5073 008 Rev A – Units 6-9 Elevations
5073 009 Rev A – Units 10&11 Plans
5073 010 Rev A – Units 10&11 Elevations
5073 011 Rev A – Units 12-14 Plans
5073 012 Rev A – Units 12-14 Elevations
5073 013 Rev A – Units 15-18 Plans
5073 014 Rev A – Units 15-18 Elevations
5073 015 Rev A – Units 19-23 Plans
5073 016 Rev A – Units 19-23 Elevations
5073 017 Rev A – Units 24-29 Plans
5073 018 Rev A – Unit 24-29 Elevations
5073 019 Rev A – Units 30-32 Plans
5073 020 Rev A – Units 30-32 Elevations
5073 021 Rev A – Units 33-36 Plans
5073 022 Rev A – Units 33-36 Elevations
5073 023 Rev A – Units 37-39 Plans and Elevations
5073 024 Rev B – Site Sections
C-GA-200 Rev P7 – Highway Layout
C-GA-201 Rev P5 – Highway Materials Layout
C-GA-202 Rev P6 – Proposed Service Strip Layout
C-GA-203 Rev P5 – Visibility Splays
C-GA-302 Rev P1 – Combined Section 38/S278 Highway Layout
C-GA-305 Rev P1 – Section 278 Highway Construction Details
C-GA-240 Rev P1 – Highway Junction Layout

3. No development shall commence (including any works of demolition, site clearance or ground works) until a Construction Method Statement (CMS) shall have been submitted to, and approved in writing by, the local planning authority. The approved CMS shall be adhered to throughout the demolition and construction period. The CMS shall include, but not be limited to:
 - i. The method and duration of any pile driving operations together with arrangements for prior notification to the occupiers of potentially affected properties;
 - ii. Hours of working;
 - iii. The responsible person (e.g. site manager / office) who could be contacted in the event of complaint;

- iv. Measures to control the emission of noise, dust and dirt during demolition, site clearance and construction works;
- vi. Details of wheel washing facilities;
- viii. A scheme for recycling/disposing of waste resulting from demolition, site clearance and construction works; and
- ix. The parking of vehicles of site operatives and visitors.

Work shall thereafter be carried out on site in accordance with the approved details.

4. No development shall commence until, a Stage 1 Road Safety Audit for the proposed works to the highway shall be undertaken and submitted to and approved, in writing, by the local planning authority, including details of any mitigations required. Any mitigations required shall be implemented in accordance with the approved details.
5. No development shall commence until details of the surface water drainage works shall have first been submitted to, and approved in writing by, the local planning authority. This shall provide for a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, associated Planning Practice Guidance and the non-statutory technical standards for sustainable drainage systems, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the system shall be designed such that there is no surcharging for a 1 in 30-year event and no internal property flooding for a 1 in 100-year event + 40% allowance for climate change. The submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site to greenfield run off rates and volumes, taking into account long-term storage, and urban creep and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; temporary storage facilities, means of access for maintenance (4 metres minimum to sustainable drainage elements) to prevent flooding;
 - b) Any works and calculations required off site to ensure adequate discharge of surface water without causing flooding to existing properties and highways or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
 - c) Flood water exceedance routes both on and off site;
 - d) Details of the management of the surface flow route through the site, so existing and new properties do not flood; and
 - e) A timetable for implementation of the approved surface water drainage works.

The approved surface water drainage works shall thereafter be carried out in accordance with the approved details and timetable.

6. No development shall commence until a Detailed Arboricultural Method Statement (AMS) with Tree Survey and Tree Protection Plan (TPP) following the recommendations contained within BS5837:2012 has been submitted to and approved in writing by the local planning authority. The AMS shall include the control of potentially harmful operations such as site preparation (including

demolition, clearance and level changes); the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery. The AMS shall incorporate a provisional programme of works, supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the local planning authority together with a timetable for their submission. The TPP shall be superimposed on a layout plan, based on a topographical survey, and exhibit root protection areas which reflect the most likely current root distribution, and reflect the guidance in the AMS. No development or other operations shall thereafter take place other than in accordance with the approved details.

7. The development shall be carried out in accordance with the measures outlined in Sections 11-15 of the Phase 1 Ecological Appraisal by Brynley Andrews Associates dated February 2024. If amendments to the methodology are required, details of the changes shall be submitted to, and agreed in writing by the local planning authority before relevant works proceed. The development shall then be implemented in accordance with the agreed changes.
8. The approved contamination remediation scheme prepared by Tweedie Evans Consulting Ltd dated May 2024 shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved, in writing, by the local planning authority.
9. If, during construction, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with. Once approved in writing by the local planning authority, the remediation strategy shall be implemented as approved.
10. No development above ground level shall take place until details / samples of the materials to be used externally in the development have been submitted to and approved, in writing, by the local planning authority. The development shall be carried out in accordance with the approved details/samples.
11. No dwelling shall be occupied until the flood resilient building measures detailed within the Flood Risk Assessment and Drainage Strategy prepared by True Consulting Engineers shall have been implemented in full. Once implemented, the flood resilience measures shall thereafter be retained.
12. No dwelling shall be occupied until a Flood Emergency and Evacuation Plan (FEEP) has been submitted to, and approved in writing by, the local planning authority. The FEEP shall deal with matters of flood warning, evacuation and refuge, and should demonstrate that future occupiers of the property will not be exposed to flood hazards. The approved measures shall be implemented upon the first occupation and the dwellings shall thereafter be occupied and operated in accordance with the FEEP.

13. No dwelling shall not be occupied until details of a scheme for providing space and facilities for the storage and collection of waste has been submitted to and approved, in writing, by the local planning authority and the approved scheme has been implemented. Thereafter the approved space and facilities for the storage and collection of waste shall be permanently retained.
14. No dwelling shall be occupied until the new site access to Stuart Road has been constructed, including a blended crossing across the bellmouth of the junction for pedestrians, and the related visibility splays have been provided in accordance with the approved details. The approved blended crossing shall be retained as such thereafter and the visibility splays shall be maintained free of vegetation or other obstruction above 600mm above the nearside carriageway level at all times thereafter.
15. No dwelling shall be occupied until the access serving the dwelling to be occupied has been completed in accordance with the details shown on the approved plans and the relevant number of vehicular parking spaces, including electric charging point, for that dwelling has been provided in accordance with the approved plans. The vehicular parking shall be retained solely for use for parking thereafter.
16. No dwelling shall be occupied until secure parking facilities for bicycles have been provided for it, in accordance with the approved plans and specifications. The approved facilities shall thereafter be permanently retained and kept available for the parking of bicycles at all times.
17. Unless otherwise first agreed in writing by the local planning authority, no dwelling shall be occupied until measures to generate at least 15% of the on-going energy requirements of the use through micro renewable or low carbon technologies have been installed and are fully operational in accordance with the approved details. Thereafter, the approved technologies shall be permanently retained.
18. All hard and soft landscape works, including boundary treatments, shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme of implementation that has first been submitted to and approved, in writing, by the local planning authority. Trees, hedges and plants shown in the landscaping scheme to be retained or planted which, during the development works or a period of ten years following full implementation of the landscaping scheme, are removed without prior written consent from the Local Planning Authority or die, become seriously diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the Authority may specify. All hard landscape works shall be permanently retained in accordance with the approved details unless otherwise agreed, in writing, by the Local Planning Authority.
19. The proposed unit 35 shall not be occupied until the first floor west facing window shall have been fitted with obscure glazing and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed

shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

20. No external lighting shall be installed until details have been submitted to and approved, in writing, by the local planning authority. The details shall include:
- i. details of the type and location of the proposed lighting;
 - ii. existing lux levels affecting the site;
 - iii. the proposed lux levels; and
 - iv. lighting contour plans,
- Any external lighting shall be installed and operated in accordance with the approved details.

End of Schedule

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