

Planning Appeal: APP/DO121/W/21/3285624

Written Representations on Behalf of Backwell Parish Council (BPC) and Backwell Residents Association (BRA)

Land At Farleigh Farm And 54 And 56 Farleigh Road Backwell - Outline planning application for demolition of 54 and 56 Farleigh Road; residential development of up to 125 dwellings (Class C3); strategic landscaping and earthworks, surface water drainage and all other ancillary infrastructure and enabling works with means of site access (excluding internal roads) from the new junction off Farleigh Road for approval; all other matters (internal access, layout, appearance, scale and landscaping) reserved for subsequent approval.

Planning History

1. The appeal site and the wider Farleigh Fields is subject to extensive planning history with repeated attempts by the landowner/developer to seek planning permission for between 150 and 250 dwellings since 1984. In each case planning permission has been refused and the appellant's case dismissed at appeal.
2. A common theme throughout the historic decisions and the current appeal's reasons for refusal is the effect of the proposals on the character and appearance of this area of Backwell.
3. The Inspector's Report in 2000 in respect of the proposals for 150 dwellings in the fields to the south-west of, and partially including, the current appeal¹ concluded that:

"The character and appearance of the proposed development area would be completely changed from a rural appearance to a built development. The built up area of the village would be seen as extending considerably further eastwards and southwards. Walkers on the two footpaths across the site would no longer perceive themselves as being in the countryside. The remaining open land would become a piece of isolated and fragmented landscape, no longer part of the wider countryside. This part of the countryside should be protected for its own sake..." (paragraph 121, Inspector's Report).

4. The Inspector's report into the appeal in 2017² acknowledged the significance of Farleigh Fields, recognising the substantial size of the agricultural land and the well-used nature of the public rights of way which traverse the fields. He concluded that the site has:

"a distinctly rural, countryside character and appearance. In my view its importance - both as a local resource, via the rights of way that cross it, and in terms of its contribution to the unusual countryside setting of the village - is elevated by the fact that it lies within the

¹ APP/DO121/A/99/1035049

² APP/DO121/W/16/3153935

settlement, surrounded by the development. In short, the site is important locally in those terms and that importance stems in large part from the fact that it remains open, undeveloped countryside.” (paragraph 346, Inspector’s Report).

5. The Secretary of State agreed with the Inspector’s conclusions that ***“the proposed development would significantly affect the setting and character of Backwell (IR354) and this carries significant weight against the proposal.”*** (Paragraph 30, Secretary of State decision letter).
6. In determining these previous appeals, the importance of Farleigh Fields as publicly accessible open countryside within the village and the harmful impact that development would have on their character and appearance was consistently afforded significant weight and such principles should continue to apply to this current appeal.

Material Changes since the 2018 Appeal

7. The Adopted Development Plan remains the starting point for determination of the appeal proposals (NPPF, paragraph 2); proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise. In determining the 2018 appeal within the context of a shortfall of housing land supply, the Secretary of State concluded that the appeal scheme was in direct conflict with the development plan and gave substantial weight to the adverse impacts of the proposals, which were not outweighed by the benefits of the scheme.
8. In order to determine whether a different decision should be reached in respect of this latest appeal, consideration must be given to any material change in circumstances which have arisen since the Secretary of State’s decision in 2018.
9. Material changes in circumstances include:
 - a. the National Planning Policy Framework, updated in July 2021;
 - b. North Somerset Council’s (NSC) Development Plan updated with the adoption of the Sites and Policies Plan Part 2: Site Allocations Plan in April 2018;
 - c. Parts of Farleigh Fields (excluding the appeal site) were designated as Local Green Space through the Site Allocations Plan;

- d. NSC has improved its housing supply position; it can now demonstrate a 4.8 year housing supply³, an increase from 4.07 years accepted by the Inspector at the 2018 appeal;
 - e. NSC has progressed its new Local Plan, with publication of the draft plan expected in February 2022;
 - f. The Backwell Neighbourhood Plan, Made in March 2015 no longer complies with the NPPF paragraph 14(a) thereby reducing the weight to be attached to any conflict with its policies;
 - g. The developable area of the appeal scheme has reduced from 7.3 hectares to 2.62 hectares for the current scheme;
 - h. The proposed net density has increased from circa 25 dwellings per hectare⁴ to 48 dwellings per hectare⁵;
 - i. The height of the proposed development has increased from mainly 2 storey with 2.5 storey dwellings in key locations to 2 storey with 3 storey at the centre of the site;
 - j. The proposed detention basin has been relocated from the western field, further east onto higher ground immediately to the rear of existing residential properties.
10. Matters which are unchanged since the last appeal include:
- a. The site and surroundings are broadly unchanged since the last appeal;
 - b. The appeal site and wider Farleigh Fields continue to lie outside the settlement boundary and within open countryside where development is strictly limited by the Development Plan;
 - c. Farleigh Fields continue to be used for agricultural use, with a mix of arable and pastoral uses;
 - d. The public rights of way which cross the site continue to be well-used with users benefiting from the tranquil environment of Farleigh Fields with an increased usage of the public rights of way since the onset of the COVID-19 pandemic.

³ Housing Land Supply Position Statement (April 2021)

⁴ APP/D0121/W/16/3153935, paragraph 36 of Inspector's Report, 2017

⁵ Page 16, NSC Officer's Report, 21/P/1766/OUT, September 2021

11. In light of the above it is evident that the character, appearance and importance of Farleigh Fields as a valuable area of publicly accessible open countryside within Backwell remains unchanged since the appeal decision in 2018.
12. NSC's housing land supply position has improved over this time and the components of the North Somerset Adopted Development Plan are less than 5 years old. Although it is acknowledged that the Backwell Neighbourhood Plan no longer complies fully with paragraph 14 of the NPPF, it remains part of the Adopted Development Plan for Backwell until 2026 and any conflict with its policies must be afforded weight in the determination of this appeal.
13. Although the proposals are reduced in scale, both in terms of site area and quantum of housing, the density of development which would be necessary to achieve 125 dwellings within the appeal site boundary, the proposed layout and associated play space and the location and design of the detention basin would be out of character with the adjoining ribbon development and would represent an incongruous, urbanisation of Farleigh Fields, which would be readily perceived by users of the public rights of way.
14. The proposals would pose considerable harm to this unusual area of open countryside and its value as a tranquil environment, the importance of which has been consistently recognised by previous Inspectors and Secretaries of State.
15. For these reasons, there has been no material change in circumstances which would redress the balance of impacts considered by the Secretary of State in 2018 in favour of the appellant and accordingly the appeal should be dismissed.
16. Further details of BPC and BRA's concerns regarding the adverse impacts of the appeal proposals are set out below.

Character and Appearance of the Area

17. BPC and BRA raise objection to the appeal scheme on the basis that the proposals would have a significant urbanising effect on the character, appearance and tranquil qualities of this unusual area of agricultural land within Backwell.
18. The proposals would bring development closer to the public rights of way and result in a significant incursion upon and urbanisation of the open countryside and Local Green Space associated with Farleigh Fields. The loss of open land within Farleigh Fields would compromise users' visual perception of the area as open countryside, with the new residential development visible from the public rights of way.

19. The context of the Local Green Space would change markedly, through the enclosure on all sides by residential development, with the appeal scheme representing a significantly denser form of development than existing housing. As described by the Inspector of the appeal in 2000, the residual open space would represent an isolated and fragmented landscape which would no longer be part of the wider countryside.
20. The quantum of development and its design, layout and density would have a considerable adverse impact on the character and appearance of Farleigh Fields and this is addressed in further detail below.

Design

21. The outline planning application fails to demonstrate that the appeal site is capable of accommodating 125 dwellings without significant harm to the area's character and setting, contrary to Policies CS5 and CS12 of the Adopted Core Strategy and paragraphs 124, 130 and 174 of the NPPF.
22. The proposals would represent a significant increase in the density of development when compared with the previous appeal scheme, resulting in an increase in building heights and a reduction in plot sizes which would appear incongruous alongside the existing residential development on Farleigh Road, which is characterised by low density, ribbon development with large individual plots.
23. At a net density of 48 dwellings per hectare within a rural/village setting, the appeal scheme fails to respect the particular character and rural quality of Farleigh Fields. The Appellant's Density Principles indicate that high density development would be located immediately adjacent to the existing residential properties, with low to medium density immediately to the south.
24. The Appellant's Height and Scale parameters plan indicates that this density would be achieved through a combination of 2-3 storey dwellings. Split level properties are proposed as part of the scheme, yet there are no examples of split level properties within the immediate vicinity of the site and the use of such a design approach would be out of keeping with the area.
25. The indicative masterplan proposes the introduction of cul-de-sacs to the north of the main loop road which would prevent a back to back arrangement between existing and proposed properties. Rather, properties would be located close to the rear boundary of existing

properties, with the side elevation and public highway visible from existing rear gardens, with noise and disturbance associated with vehicles turning and parking, prejudicing residential amenity. The significantly higher density of the proposed housing immediately adjacent to existing properties, with the height of properties increasing as the development ascends further south, would appear crowded and dominant when viewed within the context of the existing properties on Farleigh Road.

26. The location, density and layout of the housing proposals would represent a significant urbanisation of the open countryside, with the high density built form visible from public rights of way and Local Green Space (LGS) to the detriment of their enjoyment, character and appearance of the LGS.
27. The photograph below illustrates the current character and appearance of the appeal site as viewed from the neighbouring residential properties.



28. In addition to the housing layout and design, the proposed location, size and design of the detention basin would result in significant engineering works; the previous Inspector concluded that such a feature would sit awkwardly with the area's rural character and therefore contribute towards the harmful impact of the proposals.
29. The current appeal scheme has sought to relocate the detention basin closer to the proposed residential development to limit the spread of development to the west. However, the proposed location does not represent the lowest point within the application site; this is located close to the proposed access road onto the A370 and the appellant fails to set out the reasons why the lowest point in the site is not utilised.

30. The proposed location for the detention basin requires more excavation to create a consistent top of bank level due to the steeper ground levels and BPC and BRA are concerned that the proposed location of the basin fails to offer a satisfactory solution to attenuate the whole site. The design of the detention basin would also need to allow an appropriate freeboard, and consider where overtopping water would drain to in an exceedance event. Accordingly, the previous Inspector's concerns are further amplified by the revised attenuation proposals.
31. The Appellant has failed to demonstrate that the attenuation capacity of the proposed detention basin is sufficient in size. In particular:
- a. The FRA does not account for the intake of surface water flows into the site from Court Close to the south, as demonstrated by the surface water flow path;
 - b. The FRA assumes that 60% of the housing area would be impermeable. A higher percentage should also have been tested, in particular consideration given for urban creep;
 - c. The FRA used a runoff rate of 15.4 l/sec for the 2.70ha housing area rather than the impermeable area of 1.62ha. If the lower rate of 9.4l/sec is used for the 1.62ha area, then the attenuation volume increases from 1072m³ to a volume between 1105 to 1555m³;
 - d. The surface water conveyance routes across and from the site including during an exceedance event, taking into account the levels of drainage features and infrastructure,
 - e. The FRA fails to demonstrate that there is an available surface water discharge receptor. ;
 - f. The FRA fails to confirm whether there has been an agreement to the Appellant's proposed surface water discharge rate, or whether a more stringent runoff rate would be applied. A more stringent runoff rate would require a larger attenuation volume to be provided to control the surface water runoff rate from the site.
32. The proposed location of the detention basin between existing and proposed residential properties is highly constrained and the Appellant has failed to demonstrate that an attenuation basin of sufficient capacity can be accommodated and sensitively designed to overcome the previous Inspector's concerns.
33. It is acknowledged that this is an outline planning application with all matters except site access to be determined at a later date. However, this appeal must give full consideration to the site's capacity to accommodate the proposed development and achieve a sensitively designed scheme which is in keeping with the character and appearance of the area.

34. The Appellant has failed to demonstrate that the proposals could be accommodated through a sensitive design and layout without significant harm to the character and appearance of Farleigh Fields and the immediate setting of this area of Backwell, contrary to paragraph 124 of the NPPF. In these circumstances, the NPPF advises that the appeal should be dismissed on the basis that the appeal scheme is not well designed⁶.

Drainage

35. Drainage is a detailed matter for determination through this outline planning application and therefore requires a detailed drainage strategy to be submitted for consideration as part of this application. This is particularly relevant within the context of the recurrent surface water flooding of the A370 between Backwell Leisure Centre and Fairfield School and neighbouring residential gardens. Photographs illustrating the severity and extent of flooding during heavy rain periods in June and December 2020 are attached at Appendix 1. BPC and BRA are concerned that the development of part of Farleigh Fields could introduce additional run-off onto the A370 which would exacerbate existing flooding.

36. There are several unresolved matters in respect of the proposed drainage strategy, particularly in respect of the surface water strategy and proposed attenuation. These matters are dealt with below.

37. The FRA assesses the sources of flood risk both to and resulting from the proposed development of the site. The FRA concludes that there is a low risk of fluvial and tidal flooding; groundwater flooding; and flooding from artificial sources. Flooding from sewerage and infrastructure is also considered to be low, but consideration should be given to the foul sewer in the south-eastern part of the site. Flooding from surface water is generally very low, but there is a surface water flow path from Court Close to the north. Whilst this has been assessed as low, the intake of surface water from this flow path needs to be included in the surface water drainage strategy.

38. The FRA acknowledges historic flooding from surface water flows to properties along Farleigh Road, and also advises that the piped highway drainage system on Farleigh Road is reported to flood, notably in the area near to Backwell Leisure Centre. This is illustrated by the photographic evidence at Appendix 1. Further instances of flooding have occurred during 2021.

⁶ Paragraph 134, NPPF

39. The FRA indicates that surface water discharges from the site currently soak into the ground via infiltration, although shallow ponding may occur in extreme events. However, in applying the sustainable discharge hierarchy, it discounts infiltration SuDS due to the underlying geology and soils, without any further soakaway testing. This should be assessed further as infiltration is at the top of the sustainable discharge hierarchy.
40. In the absence of a surface water body within or close to the site, the FRA proposes an attenuation-led strategy with a restricted discharge to an appropriate and availability discharge receptor. However, there is an absence of detail in the FRA on the viability of this approach.
41. The FRA provides no details to suggest that a proposed new connection and associated route, loading and discharge rate for this site have been agreed.
42. The proposed drainage strategy calculates that an attenuation volume of 1072m³ would be required based on the impermeable surface area (60% of 2.7ha) and to achieve the Q_{BAR} runoff rate. Accordingly, attenuation storage of this volume would be provided in a detention basin immediately adjacent to existing and proposed properties.
43. In the event of exceedance/failure or blockage of the detention basin, the FRA implies that overland routing of water would be directed as existing. The drainage strategy advises that a 0.297m freeboard would be provided with the detention basin. However if the basin was exceeded, the likely overtopping point would be along the northern bank, towards existing adjacent residential properties. Any subsequent routing of overtopping into the new access road and Farleigh Road would need to be agreed with the Highway Authority within the context of existing flooding of the piped highway drainage, as outlined above.
44. In respect of the above, the Appellant has failed to provide satisfactory evidence of:
 - a. The viability of infiltration through soakaway testing;
 - b. the suitability of the detention basin and freeboard in terms of size, location and design to accommodate surface water run-off;
 - c. the routing of overtopping of the proposed detention basin and freeboard.
45. Furthermore, we are not aware that the Appellant has reached agreement with:
 - a. the Highway Authority to the routing of overtopping into the public highway and that such additional loads would not exacerbate existing flooding; and

- b. the relevant authorities for a proposed new surface water drainage connection and associated route, loading and discharge rate.

46. Accordingly, there is insufficient evidence to demonstrate the appeal scheme would not increase the risk of surface water flooding.

Best and Most Versatile Agricultural Land

47. The Appellant's acknowledge that the application site is predominantly Grade 3a agricultural land and therefore represents best and most versatile agricultural land. The Agricultural Classification Report accompanying the appeal confirms that almost 18 hectares of the 20 hectares of Farleigh Fields represent best and most versatile land. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land (paragraph 174 (b)).

48. The particular qualities and characteristics of the natural and local environment of Farleigh Fields can be attributed to the mixed agricultural use of the land. It is acknowledged that there are limitations upon the agricultural uses of the land due to its size (20 hectares) and the absence of farm buildings or a larger farm holding nearby. Nevertheless, tenant farmers have proven that, taken as a whole, Farleigh Fields remains viable farmland for traditional, low impact forms of agriculture.

49. The Appellant has failed to demonstrate that the loss of the appeal site from the agricultural holding would not irreparably compromise the viability of any future agricultural use of Farleigh Fields. The Appellants acknowledge that the appeal proposals would result in the irreversible loss of 7.6 hectares of agricultural land (predominantly Grade 3a)⁷.

50. The Appellant advises that the current tenant farmer of Farleigh Fields own their own land and buildings to the north of Farleigh Road. They occupy Farleigh Fields on a short-term Farm Business Tenancy, using the fields for a mixture of arable crops and permanent pasture for grazing beef cattle.

51. The Appellant contends that as the site has not formed an integral part of an agricultural holding for many years and has been farmed in the knowledge that short term agreements may not be renewed, the proposed development of the site would not affect the continued

⁷ paragraph 3.2.8, Agricultural Classification Report

management of the residual main holding. However, this assumes the existing tenant farmer remains the incumbent tenant and is therefore able to operate with the benefit of its own buildings and land to the north of the site. The Appellant fails to address whether the residual 12 hectares of farmland would be commercially viable to another tenant farmer without their own land and buildings so conveniently located for use in combination with Farleigh Fields.

52. In the event that the residual land is no longer viable for agricultural use, this would not only represent a significant cumulative loss of best and most versatile land, but would also result in the deterioration of the landscape, through the withdrawal of traditional agricultural management practices, which contributes so significantly towards the special qualities, characteristics and importance of this open countryside to the setting of this part of Backwell.

Ecology

53. North Somerset Council accept that the appeal proposals would, in combination with other plans and projects and in the absence of avoidance and mitigation measures, likely have a significant effect on the North Somerset and Mendip SAC (Greater and Lesser Horseshoe Bats). Accordingly the local planning authority is required to undertake an Appropriate Assessment of the site. The Officer's delegated report advises that an Appropriate Assessment has not been completed due to the refusal of the planning application. No comments were submitted by the Council's ecologist and it therefore unclear whether a formal review of the ecological impacts of the proposals has been carried out by the LPA. The Appellant has not submitted a Shadow Habitat Regulations Assessment. Accordingly, in absence of such assessments, the NPPF stipulates that the presumption in favour of sustainable development would not apply⁸.

Traffic Impacts

54. It is acknowledged that there is no reason for refusal in respect of traffic impacts. However, BPC and BRA note that the concerns expressed by the Highway Authority in their comments on the planning application, dated 6 September 2021 have not been addressed by the Appellant. The Highway Authority highlighted that the Appellant has relied upon 2014 based data to inform the baseline traffic levels and claims that there has been no growth in traffic levels since that date. The Highway Authority sought further evidence from the Appellant to justify these claims, however, there is no evidence of further submissions.

⁸ Paragraph 182, NPPF, July 2021

55. The Highway Authority also questioned the methodology and surveys which under-estimate vehicle trip rates associated with the proposed development. In particular, the use of census data was challenged due to its age (2011 census) and the absence of other significant peak period journey purposes which would travel through the crossroad signals but are not recorded by the census data. Therefore, in respect of both background traffic levels and the trip generation associated with the appeal proposals, the Appellant has under-estimated the impact of the appeal proposals on traffic levels and associated highway capacity, congestion, noise and other environmental impacts of increased vehicular trips on the local area.
56. In the absence of up-to-date and robust traffic data it not feasible to discount the possibility that the appeal proposals would have an unacceptable impact on the operation of Backwell crossroads and highway safety. In this context, the NPPF advises that the appeal should be dismissed⁹.

Conclusions

57. For the reasons set out above, BPC and BRA maintain their objections to the appeal proposals.
58. The appeal proposals are contrary to the Adopted Development Plan and the conflict with development plan policies represents significant harm which weighs against the proposals.
59. In the context of paragraph 11d of the NPPF and the presumption in favour of sustainable development, the adverse impacts of the appeal proposals, as outlined above, would significantly and demonstrably outweigh any benefits of the scheme when assessed against the policies in the NPPF taken as a whole.
60. Accordingly, we respectfully request that the Inspector dismiss this appeal.
61. BPC and BRA wish to make the Inspector aware that they may wish to speak at the Inquiry and they reserve the right to amend their position in light of the formal evidence submitted by the main parties to the appeal.

⁹ Paragraph 111, NPPF, July 2021

APPENDIX 1: FLOODING OF A370 WITHIN THE VICINITY OF THE APPEAL SITE

17 JUNE 2020



**1. PHOTOGRAPH TAKEN OUTSIDE BACKWELL
LEISURE CENTRE FACING EASTWARDS**



**2. PHOTOGRAPH TAKEN WEST OF BACKWELL
LEISURE CENTRE ON FARLEIGH ROAD, FACING
EASTWARDS**



3. PHOTOGRAPH TAKEN ON FARLEIGH ROAD, WEST OF THE LEISURE CENTRE, FACING EASTWARDS



**4. PHOTOGRAPH TAKEN OPPOSITE BACKWELL
LEISURE CENTRE, FACING EASTWARDS**



5. PHOTOGRAPH OF NUMBER 24 FARLEIGH ROAD



6. PHOTOGRAPH OF NUMBER 28 FARLEIGH ROAD

7 DECEMBER 2020



**7. PHOTOGRAPH TAKEN OUTSIDE NUMBER 26
FARLEIGH ROAD, 1.5 HOURS AFTER FLOODING –
WATER MARK CLEARLY VISIBLE FROM DEBRIS**