

Application Number	2023/1084/FUL
Site	Land At 369311 147357 Quarry Lane Leigh On Mendip Shepton Mallet Somerset
Date Validated	23 June 2023
Applicant/ Organisation	J Hudson
Application Type	Full Application
Proposal	Demolition of existing barn to form terrace of 3no. single storey dwellings.
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

6. **What 3 Words:**

Site Access: chosen.confining.juggler

Development Site: zones.poem.dentistry

Planning Board Referral

Referred to Planning Board as the proposal is considered a departure from the Mendip Local Plan, and the officer recommendation is for approval. The parish council have also recommended refusal of the application.

Description of Site, Proposal and Constraints:

This application relates to a building to the rear of Land at Ivy Cottage, Leigh Street, Leigh on Mendip, Somerset, BA3 5QG. The building is located on the edge of Leigh on Mendip and within a Bat Consultation Zone, Mineral Consultation Zone and Source Water Protection Zone.

The application seeks full planning permission for the demolition of the existing barn (refer to section below for relevant planning history), to be replaced by 3no. terraced

houses. The application is part retrospective as a section of the barn has already been demolished and new build construction has commenced.

The access to the dwellings with this application is proposed to utilise an existing access that serves the site. However a separate application (ref; 2023/0693/FUL) is also currently under consideration for the creation of a new access to serve the three units.

As stated above the proposal is part retrospective given that the barn has already been partially demolished and construction has commenced on the right and centre units. The terrace of dwellings will be over a single storey and will occupy approximately 354sqm, accommodating 2 x 3 bedroom dwellings and 1 x 4 bedroom dwelling which is reflective of the scheme approved through the prior approval process.

While the total ridge height is to be increased above that of the former barn (already partially demolished under this new application, the proposed new building form is to be set down lower into the ground to match the surrounding levels.

Planning History

108035/003 - Conversion and extension of outbuilding to farm shop and ancillary accommodation to Ivy Cottage - Approved - June 2007

2010/1362 - Variation of condition 3 (limiting source of goods) and removal of condition 4 (type of produce) of consent no 108035/003. - Approved - August 2010

2017/3266/PAA - Prior Approval for a proposed change of use of agricultural building to No. 3 dwellinghouses (Class C3) and for associated operational development. - Prior Approval Given - Feb 2018

2018/0411/CLP - Application for a proposed lawful development certificate for the erection of 3 No. Dwellinghouses (Class C3) and for associated operational development. - Development is Lawful - April 2018

2021/1611/PAA - Prior Approval for a proposed change of use of agricultural building to 3No. dwellinghouses (Class C3) and for associated operational development. - Granted under Deemed Consent - Sept 2021

2021/2273/CLP - Application for a proposed lawful development certificate to confirm that application 2021/1611/PAA (change of use of agricultural building into 3 dwellings (Class C3) with Associated Operational Development has deemed Consent and the works proposed are permitted Development under Class Q - Development is Lawful - Nov 2021

2021/2273/CLP - Application for a proposed lawful development certificate to confirm that application 2021/1611/PAA (change of use of agricultural building into 3 dwellings (Class C3) with Associated Operational Development has deemed Consent and the works proposed are permitted Development under Class Q - Development is Lawful - Nov 2021

The following applications on land directly adjacent to the application site are considered relevant to the application scheme

2020/1877/OTS - Application for Outline Planning Permission with some matters reserved (access considered) for the erection of up to 40 dwellings and provision of school playing field and car park - Refusal - April 2021 - Appeal Dismissed

2022/0053/OTS - Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access. - Approved - May 2023.

2023/0693/FUL - Creation of new access and driveway. - Pending Consideration

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No response

Town/Parish Council: Refusal on the following grounds:

- Within the mineral safeguarding area for nearby quarries
- Unsustainable location
- Impact on the setting of the Grade I listed church
- Impact on the landscape character of the area
- Proximity to Mells Valley Special Area of Conservation and impact on bats
- Highway safety concerns from increase in traffic

Highways: No response

Contaminated Land Officer: No objection

Environmental Protection: No objection subject to a condition restricting construction hours to protect neighbouring properties from noise disturbance.

Ecology: No response

Somerset Minerals Planning Policy: No response

Somerset Waste Partnership: Recommend that there is a hardstanding area/fenced off bin storage area at the entrance of the site. The access road is private and quite narrow, our contractor's vehicles would therefore not access it.

Local Representations: One letter of objection was received raising the following concerns

- Within the safeguarding distance of Halecombe Quarry and thus risks limiting future extraction and employment
- Does not meet any identified need as set out in the Housing Need Survey
- Does little to reflect the Village Design Statement
- Fails to reflect the character of the existing barn
- No justification given as to why the barn couldn't be converted as per the Structural Survey
- Impact on the setting of the Grade I Listed church

An objection was received from the Parochial Church Council raising the following concerns:

- Not a conversion as the original barn isn't being reused
- No longer retains the character of the original barn
- The application site is within the minerals safeguarding distance of Halecombe Quarry and objections were raised by Minerals and Waste Policy on a similar application nearby
- Barn was previously found to be suitable for conversion as per the structural survey submitted with the Class Q application, why was this not fulfilled?
- Impact on the setting of the Grade I Listed church

Two letters of support have also been received and one letter neither objecting nor supporting the application but supporting the use of similar materials as seen on a nearby development at Broad Bean

These comments reflect an update on the previous officer report published for the agenda for August Planning Board.

Full details of all consultation responses can be found on the Council's website www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies Post JR Version (December 2021)
- Somerset Waste Core Strategy

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 (Mendip Spatial Strategy)
- CP2 (Supporting the provision of new housing)
- CP4 (Sustaining Rural Communities)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity)
- DP6 (Bats)
- DP7 (Design and Amenity)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)

- DP22 (Reuse and Conversion of Rural Buildings)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)

Assessment of relevant issues:

Principle of the Use:

The application site is located in the open countryside and outside of any development limits as defined in the Local Plan where development is strictly controlled. Furthermore Leigh on Mendip as a village falls within an open countryside location.

The strategic Core Policies within the Local Plan which seek to prevent new housing outside the development limits as referred above are now out of date and therefore have limited weight. In addition, and as a result of the adoption date of LP1, the Local Planning Authority (LPA) cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the NPPF. Therefore, whilst regard is had to the specified policies in the Local Plan, the policies in the NPPF are engaged and have substantial weight.

As such, Paragraph 11(d) will be taken into account in determining this application, where the LPA will make an assessment as to whether any adverse impacts of the development would be significantly and demonstrably outweighed by the benefits associated with the proposal.

In completing this assessment it will be necessary to assess the scope of harm of this current planning application scheme in the context of the barn conversion allowed under the 2021/1611/PAA for 3no. residential units. The footprint of this scheme requires the existing barn to be demolished, as such the number of residential units that could be delivered on site remains the same as the previously approved scheme through the prior approval process.

The Parish Council raised a query as to why the barn wasn't converted as per the details provided within the Structural Survey submitted with the original change of use application (2021/1611/PAA), which found the barn was capable of conversion. The applicant has clarified that the conversion couldn't take place due to the low beam heights of the original barn which would have required extensive ground works to comply with building regulations. Notwithstanding the applicants response on this point there is confirmed that the applicant no longer has the benefit of an implementable fall back position.

The policies within the NPPF seek to direct new residential development towards sustainable locations and similar to CP4 a number of exceptions are provided for within paragraph 80 where a dwelling in the countryside might be acceptable.

However, paragraph 80 reads:

"Planning policies and decision should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply..."

Whilst falling outside of designated development limits, the proposal falls on the edge of the built village of Leigh-on-Mendip.

Whilst there is a lack of regular running public transport services within the village, Leigh-On-Mendip benefits from the following services: a school, a free house and café and a Church. The village itself which falls 5 miles equidistance from both Frome and Shepton Mallet as the closest principle settlements and approximately 1 mile from Coleford and 2 miles from Stoke St Michael, which are both Primary Villages as designated by the Local Plan.

It is therefore considered that residential development as proposed here would not be isolated, when judged against the policies in NPPF framework.

Finally, the site lies within a Mineral Safeguarding Area and as such proposed residential development within this area has the potential to impact mineral extraction at Halecombe Quarry and Barn Close Quarry. Paragraph 206 of the NPPF notes that development should not be permitted if there is potential to constrain mineral working.

Given the history on the site for an extant consent for 3no. dwellings, and that there are other residential properties, both existing and proposed (ref: 2022/0053/OTS - as

referred above in the planning history section), which lie closer to the quarries and have been considered acceptable it is considered that the existing mineral working and the currently permitted resource being extracted at Halecombe Quarry would not be physically impacted by this latest proposal.

Design of the Development and Impact on the Listed Building and Surrounding Area:

The site is located in a rural area to the east of Leigh on Mendip and is bordered to the west and south by existing properties and to the north and east by fields. The access to the site is via an existing track from Quarry Lane. Given the rural nature of the site, the distance from the surrounding public highways, and existing screening from established planting and other buildings, the proposed dwelling is unlikely to be highly visible when viewed from the nearest public vantage points.

The height scale and massing of the proposed dwellings largely matches that of the historic barn with the only exception being a minor increase in ridge height which is offset by the proposed dwellings being set down into the ground, whereas the barn sat at a raised ground level. Overall the ridge height of the barn and proposed properties would sit at the same height when measured using the surrounding ground levels.

The site lies within the setting of the Grade I listed St Giles Church however given the height, scale and massing of the dwellings, which will largely match the historic barn, it's not considered that the proposal would result in any additional impact to the setting of the church than the existing building. In addition, the proposed materials of cedar cladding and zinc roof would retain an agricultural character and result in an improvement in visual terms. The overall built form on the site will be largely reflect the former barn.

In summary on this matter, it is therefore considered the development would be acceptable in visual terms and in terms of how it would affect the wider landscape character. On this basis the proposals are considered to be in accordance with policies DP1, DP3, DP4 and DP7.

Impact on Residential Amenity:

As mentioned above, the overall height, scale and massing of the proposal remains largely the same as the former barn and as such would not be considered to result in harm through overbearing or loss of light. The proposed dwellings are single storey and set back from any neighbouring properties therefore mitigation any potential harm through overlooking.

On this basis it is therefore considered that the proposed development would not cause significant harm to the amenities of local residents and/or future residents of the proposed dwelling through loss of light, overshadowing, overbearing impact, and loss of privacy, noise, smell, traffic or other disturbance. The proposal is therefore considered in accordance with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Assessment of Highway Issues:

The access is via an existing track, which also serves the property known as The Broad Bean, from a Class 3 highway, Quarry Lane. This track has been in use for many years to serve the application site, including consideration for a residential use as was approved through the prior approval process. In summary the creation of 3no. dwellinghouses on this site is not considered to result in any significant increase in traffic accessing the site. There is ample space within the site for the parking and turning of vehicles.

An application (ref; 2023/0693/FUL) running concurrently with the current proposal seeks to create a new access further to the north to serve these properties however this application is still pending consideration.

In summary the current means of access to the site is considered acceptable to serve a further 3 dwellings whilst maintaining highway safety standards, with sufficient car parking proposed. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Ecology:

The existing barn has been mostly demolished with the roof entirely removed and as such any roosting or nesting opportunities have been lost. Bat roost and bird nests are protected under the Wildlife and Countryside Act 1981 and as such, the requirements of the Act should have been adhered to prior to these demolition works taking place.

Given that the barn no longer has a roof, it's considered to have negligible roosting or nesting opportunities however the site does lie within a Bat Consultation Zone and as such bats could be foraging in the area so a sensitive lighting scheme for the proposal is recommended which can be secured via a condition.

In addition to the above, the NPPF requires biodiversity net gain to be incorporated within any planning application. Given the location of the site, it's considered that suitable enhancements for the site, such as additional bat tubes/shelters and bird boxes, should also be secured through a condition.

On this basis the application scheme is considered to be in accordance with the requirements of Policy DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 179 of the National Planning Policy Framework.

Environmental Impact Assessment:

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion & Planning Balance:

Whilst it is acknowledged that the development will be beyond the edge of the village and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development, CP1 and CP2, It cannot be described as being in isolated open countryside. The Council does not have a five year housing land supply therefore the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional 3 dwellings will make a modest contribution to housing in the district, which is of some weight. There will also be limited economic benefits through the construction period, and new occupants of the village result may use local services and facilities contributing to their long term viability. This again has limited economic and social benefits

The assessment of the application has not identified any harm in terms of landscape and visual impact, impact on heritage assets and/or highway safety concerns. Whilst the new dwellings will be visible, they will be seen against the backdrop of the village behind, and largely reflect what would have been constructed if the historic barn was converted in accordance with the terms of 2021/1611/PAA. Furthermore it has been demonstrated that the application site is accessible to some local services and facilities, and the future occupants are not wholly reliant on the private car.

Overall any harm arising from the application scheme are not considered to significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted as a departure from the Development Plan..

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. Plans List (Compliance)

This decision relates to the following drawings: 2023013, 2023014, 2023015, 2023016, 2023017, 2023018, 2023019 and 2023020

Reason: To define the terms and extent of the permission.

3. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external wall or roof finishes of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **External Lighting (Bespoke Trigger)**

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.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Wildlife Protection and Enhancement (Bespoke)**

Within three months of the date of the decision, full details of a Wildlife Protection and Enhancement Scheme shall be submitted to and approved in writing by the local planning authority.½ These details shall include:

- a. Two 1FF or 2F Schwegler Bat Box or similar will be installed on nearby trees at least four metres above ground level, away from artificial light spill and orientated to face the south, south-west or south-east.
- b. Two Vivra Pro Woodstone House Sparrow nest boxes or similar will be integrated into the north and/or east elevations of the proposed buildings at least

three metres above ground level.

c. An externally fixed 'Bee Box or Bee Hotel' shall be fixed about 1½ metres above ground level on the south or southeast elevation of the dwelling. Please note bee boxes attract solitary bees which do not sting.

All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. Hours of Construction Works (Compliance)

Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. Removal of Permitted Development Rights - No extensions or alterations (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area and residents in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. Removal of Permitted Development Rights - No outbuildings (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General

Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area and residents in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. Condition Categories

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. Before commencing any works to trees or existing structures, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st March to 31st August, no works should be undertaken to trees or structures which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees or structures works should immediately cease until specialist advice has been obtained from Natural England.