

Application Number	2022/2313/FUL
Case Officer	Carlton Langford
Site	Land At 360261 146054 Thrupe Lane Masbury Shepton Mallet Somerset
Date Validated	23 November 2022
Applicant/ Organisation	Mr Andy Elson
Application Type	Full Application
Proposal	Conversion of stone built agricultural barn into dwelling.
Division	Shepton Mallet Division
Parish	Croscombe Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Bente Height Cllr Martin Lovell

Referral to Ward Member/Chair and Vice Chair/Planning Board

In accordance with the Scheme of Delegation, this application is referred to the Chair and Vice Chair as the Case Officer's recommendations differs from that of the Parish Council and Divisional Member. Following referral the application is to be presented to the Planning Committee for consideration with a recommendation for refusal.

Description of Site, Proposal and Constraints:

The application relates to conversion of a barn to a dwelling. The application site forms part of a larger agricultural field of approximately 0.58ha in size to the north of Thrupe in the Croscombe and Pilton Ward. The site is accessed from West Lane, a single lane track, off Thrupe Lane. The existing barn has been rebuilt and benefits from retrospective planning permission ref 2019/1054/FUL for agricultural purposes.

The site is outside of development limits and within the Somerset Levels and Moors Ramsar Risk Area.

Relevant History:

2019/1054/FUL - Proposed demolition of old tin barn and replace with a natural stone barn.

(Retrospective) – approved with conditions – 23.07.2019

2021/1646/FUL – Conversion of Barn to Dwelling – Refused Nov 2021 for the following reasons –

1. The proposed development lies in the countryside outside defined development limits

where development is strictly controlled. The proposal has failed to demonstrate that it

complies with the Council's policy for the reuse and conversion of rural buildings by virtue of the issues identified relating to amenity conflict, unsympathetic design and impact on ecology. The proposal has failed to meet the tests of the National Planning Policy Framework for the reuse of redundant or disused buildings because it would not

lead to an enhancement of the immediate setting. The site's distance and poor accessibility and connectivity to local services and facilities would foster growth in the

need to travel by private vehicle and is therefore unacceptable in principle. The benefits

of bringing forward housing supply and the limited economic benefits for the wider community do not outweigh the significant and demonstrable harm identified. The proposal is therefore contrary to the provisions of Policies CP1, CP2, CP4, DP1, DP4, DP9 and DP22 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework and Planning Practice Guidance.

2. The proposed development would fail to maintain or enhance the environment and its

urbanising effect and encroachment into the countryside would have a harmful impact on

the countryside's intrinsic character here. The development would therefore be contrary

to the provisions of Policy DP1 and DP7 of the Mendip District Local Plan 2006-2029,

Part 1: Strategy and Policies (Adopted Dec 2014) and the advice contained under Part 9

of the National Planning Policy Framework.

3. Insufficient information has been submitted to assess whether the proposal would result

in an unacceptable increase in phosphate levels within the foul water discharge affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site and as such fails Regulation 63 of the Habitat Regulations 2017 and is not considered to be sustainable development. The proposal is therefore considered to be contrary to the provisions of Policies DP5 and DP8 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework (with particular regard to Part 15), and Planning Practice Guidance.

4. Insufficient information has been submitted to demonstrate that the proposal would be served by an adequate drainage scheme and the proposal is therefore contrary to Policy DP23 of the Mendip District Local Plan (Adopted 2014).

5. Insufficient detail has been provided regarding the access and vehicular movements associated with the development to satisfactorily demonstrate that the development would not be detrimental to highway safety. The proposal is therefore contrary to the criteria set out under Policy DP9 of the Mendip District Local Plan (Adopted 2014) which requires all proposed development to make safe and satisfactory provision for access by all means, avoid causing traffic problems for the wider transport network and promote the reduction of travel by private vehicle.

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

Divisional Member: As I understand that the recommendation of the Parish Council (Croscombe) is not in accordance with the recommendation of the Planning Case Officer I make formal request that this application goes to Planning Committee for determination. I also request that this goes on the agenda for the meeting on Tuesday 3rd October 2023

Croscombe Parish Council: No objection

Environmental Protection: No objection

Contaminated Land: No objections subject to a watching brief for potential hotspots of contamination.

Highways: Standing advice

Drainage: No objections

Ecology: No objections

Local Representations: 2 letters of support received.

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

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 (December 2021)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

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 and Ecological Networks
- DP6 – Bat Protection
- DP7 – Design and Amenity of New Development
- DP8 – Environmental Protection

- DP9 – Transport Impact of New Development
- DP10 – Parking Standards
- DP22 – Reuse and Conversion of Rural Buildings
- DP23 – Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The application site is situated outside any defined settlement limits, within a location isolated from services and facilities, where development is strictly controlled. Policies CP1 and CP2 seek to direct new residential development towards the principal settlements and within defined development limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF.

Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions: Development Policies (DP) 12, 13, and 22. Policies DP12 and DP13 are not considered to apply here.

Development Policy 22 (DP22) states that the reuse and conversion of a building in the countryside (outside of defined development limits) for residential use will be given favourable consideration where it would lead to an enhancement to the immediate setting, and:

- a) the proposed use would not prejudice the use of adjacent land and premises, particularly where such use entails agricultural or other land-based operations
- b) the design of the building, and associated development required to facilitate its reuse, respects its surroundings and does not harm the wider landscape character of the area, or have an adverse impact on the transport network

c) in the case of a traditional building, the proposal is sensitive to its fabric and character

d) the building is of permanent and substantially sound construction and is proposed for reuse and adaption in a manner which would not require major or complete reconstruction.

e) any bat roost present is incorporated or replaced, and external vegetative structure supporting is maintained or replaced within the scheme.

Paragraph 80 of the NPPF, is also supportive of schemes for the conversion of rural buildings to residential uses where it will lead to the enhancement of the immediate setting.

However, for the reasons discussed below, the proposal is not considered to be in accordance with Policy DP22 or paragraph 80 of the NPPF as the conversion would not lead to an enhancement of the immediate setting.

The Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land

supply in accordance with the requirements of the NPPF. As a result, the policies within the

Local Plan, which seek to prevent new housing outside the development limits of settlements

(CP1, CP2 and CP4) currently have reduced weight in the planning balance. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

The site is within the Somerset Levels and Moors Ramsar Risk Area. The LPA was contacted by Natural England in August 2020 to alert it to the high levels of phosphates in the internationally designated site (designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches), leading to eutrophication of the protected waters. In light of a court Judgement (known as Dutch N), Natural England has advised that before determining a planning application, even for single dwellings, that may give rise to additional phosphates within the catchment, competent authorities should undertake

a Habitats Regulations Assessment (HRA) or evidence should be provided to demonstrate that an HRA is not required.

Paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

As assessed below (Ecology) the application has provided sufficient evidence that a scheme can be put in place to ensure the development can achieve nutrient neutrality and, in this case, a Habitats Regulations Assessment (HRA) will not be required. Therefore, the presumption is favour of sustainable development under paragraph 11d of the NPPF can be activated.

Each of the requirements of DP22 are considered in detail below, in addition to the other development plan policies to assess the impact of the proposal on the character and appearance of the area, residential amenity, highway safety, flood risk and ecology.

In this case, the significant and demonstrable harms associated with residential development in such an unsustainable location do not outweigh the benefits of delivering a single dwelling.

Adjacent Land Use:

To be in accordance with DP22(a) the proposal should not prejudice the use of adjacent land and premises, particularly where such use entails agricultural or other land-based operations.

The applicant has provided the following evidence to establish that existing neighbouring land uses are unlikely to be impacted by the proposed development –

“The nearest residence is Upper Thrupe Farm, located to the east of the site off Thrupe Lane, in excess of 70 metres. Upper Thrupe Farm was a working farm until 2000 and from 2022, a smallholding where livestock including pigs, sheep and horses were maintained. Upper Thrupe Farm’s current owner is a former polo player and has a small number of ponies on site. There are no incompatible uses such as silage storage or machinery use which might cause noise or odour concerns. Being the former owner of Upper Thrupe Farm, the applicant is familiar with the running of

this farm and its operations, and the two sites are well separated by Thrupe Lane, existing hedgerows and the north east area of the application site which will soon offer an orchard meadow. Further to this, there are no bedroom windows on the eastern side of the proposed dwelling, fronting Thrupe Farm.”

This information is considered sufficient to ensure the requirements of Policy DP22(a) are met.

Design of the Development and Impact on the Street Scene:

DP22 states that the reuse and conversion of a building in the countryside (outside of defined development limits) for residential use will be given favourable consideration where it would lead to an enhancement to the immediate setting, and:

b) the design of the building, and associated development required to facilitate its reuse,
respects its surroundings and does not harm the wider landscape character of the area,
or have an adverse impact on the transport network

c) in the case of a traditional building, the proposal is sensitive to its fabric and character

DP1 states that development should contribute positively to the maintenance and enhancement of local identity, and proposals should be formulated with an appreciation of the built and natural context. Further to this, decisions should take account of efforts made to minimise negative effects.

DP7 states that the LPA will support high quality design, and that development should be of a scale, mass, form and layout appropriate to the local context. It goes on to say that the proposal should demonstrate that it can meet the needs of a wide range of users.

The proposal would significantly alter the character of this rural site and would encroach into the countryside to include the land necessary to mitigate for nutrient neutrality taken out of agricultural use. The proposal fails to demonstrate how it would contribute positively to the maintenance and enhancement of local identity, or that it respects its surroundings and does not harm the wider landscape character.

As such the application is contrary to DP1, DP7, DP22 and para 80 of the NPPF.

Degree of Reconstruction:

DP22 d) requires the consideration of the degree of change required for the conversion and stipulates that conversions should not require major or complete reconstruction.

The barn on the application site is a recent development, built illegally and then authorised retrospectively in 2019 under 2019/1054/FUL. It is unclear what contribution this barn has made to the adjacent farming operations, if any.

No structural survey has been submitted with the application to demonstrate it is suitable for conversion without major reconstruction. However, at the case officer site visit, it was very clear, that the building had been constructed to a very high standard and therefore, the building is of substantial construction and would likely accommodate conversion without the need for significant alterations.

However, as a newbuild with no obvious history of any discernible rural use, the building fails to comply with aims Policy DP22 for the reuse or conversion of rural buildings.

Ecology:

DP22 e) states that any bat roost present is incorporated or replaced, and external vegetative structure supporting is maintained or replaced within the scheme. DP5 states that the planning process will be used to protect, enhance, and restore Somerset's Ecological Network within Mendip.

The bat and bird survey submitted with the application indicate there were no bat or birds within the building.

The survey has suggested protection measures for birds and bats within nearby trees and hedgerows together with opportunities for biodiversity enhancements on site.

The proposal accords with the requirements of Policies DP22 (e) and DP5 and DP6 of the LP.

Further to this, the application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar Area.

However, interim guidelines on small-scale thresholds and nutrient neutrality principles (May 2021) have been agreed between SES and Natural England in lieu of the national guidance.

It is noted that the application is supported by evidence pertaining to these Interim guidelines, specifically to the small scale thresholds of likely significant effects in relation to Package Treatment Plants (PTPs). The evidence submitted in order to progress the application under these guidelines comprises the following: -

- Nutrient Exemptions Assessment report prepared by Cole Easdon, May 2023 on the Somerset Council Portal concerning application 2022/2313/FUL;
- Nutrient Neutrality Assessment & Mitigation Strategy report (Cole Easdon, November 2022);
- SURFACE AND FOUL WATER DRAINAGE STRATEGY report(Cole Easdon, November 2022); and
- 'Proposed Drainage Strategy' map for the proposed Proposed Residential Conversion West Lane Barn, West Lane Thrupe (Cole Easdon, October 2023).

The interim guidelines state that small discharges from PTPs or Septic Tanks to ground (i.e. less than 2m³ per day) within the Ramsar catchment will present a low risk of a significant effect where the location of the drainage field and PTP meet the proposed thresholds criteria a-h. SES are satisfied that the proposal will result in discharges of less than 2m³ per day (0.18kgTP/year. Discharge to ground via a PTP and drainage mount. Expected volume of foul water= 0.75m³ per day) and that the proposed locations of the drainage field and PTP meet the proposed thresholds criteria a- h.

The interim guidelines also state that a PTP discharging into a drainage field needs to be appropriately designed, including acceptable year-round percolation rates for it to work effectively. A percolation test ensures the drainage field effectively removes pollutants and then determines the size of the drainage field required.

A percolation test has been performed of the proposed location of the drainage field on and the results of the percolation test indicate an average Vp value of 55.71. This value lies within the required range under the Building Regulations 2010, which specify an average Vp value of between 12 and 100. This suggests that the proposed location of the drainage field will effectively remove pollutants and SES therefore consider this acceptable.

It is proposed to discharge treated effluent from the proposed treatment plant to ground via a drainage mound. The use of a drainage mound will ensure that a 2m buffer is achieved between the drainage field distribution pipes and seasonally high groundwater table. SES therefore consider this acceptable.

The Somerset Nutrient Information Request Sheet requires details on the PTP to be used, as well as the PTP's rate of efficiency for removal of phosphates. The application proposes the use of a Graf One2cleanPlus package treatment plant. SES consider this Package Treatment Plant make and model to be acceptable.

Further to discussions with Natural England, it is therefore concluded that the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore a Likely Significant Effect alone and in combination under the Conservation of Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out.

Appropriate conditions to ensure the provision of the above scheme for the disposal of foul drainage will need to be imposed.

The proposal therefore accords with Policies DP5, DP6 and DP8 of the Local Plan.

Impact on Residential Amenity:

Due to the isolated nature of the site, there are no concerns in relation to impact on residential amenity of existing dwellings.

Assessment of Highway Issues:

DP9 of the local plan, and the NPPF seek to promote sustainable transport options, such as walking, cycling or public transport. As previously stated, the site is remote from shops, services and facilities. Limited public transport options have been identified and walking or cycling journeys to meet every day needs would generally be impractical. In the absence of realistic sustainable transport options, the proposal would unjustifiably foster the growth in the need to travel by private car.

DP9 also requires development to make safe and satisfactory provision for access, emergency services, servicing and parking. DP22 b) states that the development should not have an Adverse impact on the transport network.

The amended details as submitted clearly demonstrate that a safe means of access can be achieved from the site onto West Lane and thereafter onto Thrupe Lane.

The proposal also includes suitable off-street parking provision and on-site turning to allow vehicles to arrive and leave the site safely in forward gear.

In terms of highway safety, the proposal accords with Policies DP9, DP10 and DP22 of the LP. However, the development fails to promote sustainable transport options contrary to the provisions of Policy DP9 of the LP.

Sustainability and Renewable Energy:

The application includes various mechanisms for carbon reduction including to meet policies DP7 and DP8 of the LP.

Drainage:

The site is located in Flood Zone 1 and is shown to be at very low risk of surface water flooding on the Environment Agency's Long Term Flood Risk Map. The site is located within an area that has been identified in the Mendip Flood Risk Management Programme as being at high risk of surface water runoff.

This is the conversion of an existing building therefore, there is no net change in impermeable areas as a result of the proposals and the volume of surface water runoff will not increase. The existing drainage discharges at an unrestricted rate into a watercourse to the east of the site.

The drainage strategy for the site utilises rainwater harvesting with overflow from the rainwater harvesting system discharging to an attenuation basin and wetland before discharge at greenfield rates via the existing connection to the stream.

Foul drainage will be to a package treatment plant discharging to a drainage mound. Percolation testing in accordance with Building Regulations part H has been undertaken demonstrating that infiltration rates are suitable for a drainage field which has been sized accordingly. A drainage mound has been selected due to seasonally high groundwater levels.

The schemes proposed accord with Policies DP7 and DP23 of the LP.

Trees:

A tree survey has been submitted, providing an Arboricultural Impact Assessment, Arboricultural Method

There are no formally protected trees on site. The large ash tree (T1) was noted to have ash dieback, in irreversible decline. As recommended, this tree will be reduced to a height of 4.5m and retained as a monolith. The boundary hedgerows have been noted as important landscape and ecological features, and as recommended, will remain unaffected by the development.

Overall, therefore, the development proposal is considered to comply with national and local policy in respect of existing trees and hedgerows.

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 and Planning Balance:

In assessing the proposal against the Council's conversion Policy (DP22), it is considered that the building is a newbuild development with no history of a rural use and therefore fails to accord with the key criteria of the Policy. Therefore, the principle of development is unacceptable as the site is isolated and unsustainable wholly dependent on the use of the car and does not meet exception criteria set out in the NPPF or Local Plan. The proposal for residential development with associated domestic paraphilia fails to respect the character of this rural site.

Whilst it is appreciated that the proposal would deliver a single dwelling and the need for housing in Mendip is acknowledged, it is considered that in this case, this

benefit is not outweighed by the significant and demonstrable harms identified in relation to principle of development and the impact of the scheme on the character of the area. As such, the application is recommended for refusal.

Recommendation

Refusal

1. The proposed development lies in the countryside outside defined development limits where development is strictly controlled. The proposal has failed to demonstrate that it complies with the Council's policy for the reuse and conversion of rural buildings by virtue of the issues identified relating to, newbuild, unsympathetic design and domestic use of the land. The proposal has failed to meet the tests of the National Planning Policy Framework for the reuse of redundant or disused buildings because it would not lead to an enhancement of the immediate setting. The site's distance and poor accessibility and connectivity to local services and facilities would foster growth in the need to travel by private vehicle and is therefore unacceptable in principle. The benefits of bringing forward housing supply and the limited economic benefits for the wider community do not outweigh the significant and demonstrable harms identified. The proposal is therefore contrary to the provisions of Policies CP1, CP2, CP4, DP1, DP4 and DP22 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework and Planning Practice Guidance.
2. The proposed development would fail to maintain or enhance the environment and its urbanising effect and encroachment into the countryside would have a harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to the provisions of Policy DP1 and DP7 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted Dec 2014) and the advice contained under Part 9 of the National Planning Policy Framework.

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework by working in a positive, creative and pro-active way. Despite negotiation, the submitted application has been found to be unacceptable for the stated reasons. The applicant was advised of this, however despite this, the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

2. This decision relates to drawings -

1000 P3

1001 C

1101 C

1102 D

1103 D

2101 C

2102 C

2103 D

2104 D

220-001 P1

220-301 P1

220-501 P1

22026/U01/002A

3101 C

3102 D

1002 G

8679-502 E

220-G101

220-G102

220-801 P1

DRAINAGE STRATEGY

NUTRIENT NEUTRALITY AND MITIGATION STRATEGY (REVISED)