

Application Number	2023/0174/REM
Case Officer	Kelly Pritchard
Site	Newlyn Back Lane Draycott Cheddar Somerset
Date Validated	3 February 2023
Applicant/ Organisation	Messrs Ham & Warren
Application Type	Reserved Matters Application
Proposal	Application for approval of reserved matters following outline approval 2019/1157/OTA for demolition of existing dwelling and construction of 5 new dwellings. Matters of access to be determined.
Division	Mendip West Division
Parish	Rodney Stoke Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

3. **What Three Words: flux.graph.treaty**

Referral to Planning Committee

Following the referral process, the Chairman has requested that this application be considered by the Planning Committee in the public interest.

Referral to Chair and Vice-Chair:

In accordance with the scheme of delegation, this application is referred to the Chair and Vice-Chair of the Planning Committee following the Parish Council's recommendation for refusal. The case officer recommendation is to approve with conditions.

Description of Site, Proposal and Constraints:

The application site consists of a detached bungalow set within a generous plot. The existing dwelling benefits from a vehicular access via a lane off The Street, to the south. It has a pedestrian access onto Back Lane to the north. Baggs Lane runs along the east of the site boundary. It culminates in a footpath linking The Street with Back Lane.

The site is located within the development limits of Draycott.

It is within an Area of High Archaeological Potential, Bat Consultation Zone (North Somerset Mendip Bats Special Area of Conservation), Mendip Gliding Club (5m) and Air Limit Civilian consultation area, a Source Protection Zone and Tip Interest Zone, a Site of Special Scientific Interest Impact Risk Zone and the Indicative Non Ramsar WRC area.

There is an extant outline approval, reference 2019/1157/OTA, for demolition of existing dwelling and construction of 5no. new dwellings, all matters were reserved for subsequent approval.

This application seeks reserved matters for the vehicular access for the site all other matters are to be agreed by further applications which will cover layout, scale, appearance and landscaping. The vehicular access to serve the site is proposed from Back Lane.

Relevant History:

- 049232/001 – Dwelling. Approval. 19.11.79
- 049232/002 – Dwelling. Approval. 10.01.84
- 049232/003 – Renewal of outline for the erection of a dwelling. Approval. 23.12.86
- 049232/004 – Erection of six dwellings and garages. Refused. 19.09.88
- 049232/005 – Erection of two detached bungalows and garages. Refused. 19.12.88
- 049232/006 – Demolition of dwelling and erection of three detached bungalows with garages. Withdrawn. 06.09.89
- 049232/007 – Renewal of outline permission for the erection of a dwelling. Approval. 01.11.89
- 049232/008 – Erection of detached dwelling with garaging and access and enlarge layby for Newlyn. Approval. 25.09.91

- 2019/1157/OTA - Outline application with all matters reserved for demolition of existing dwelling and construction of 5no. new dwellings. Approval.
13.03.20

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

Divisional Member: No comments received.

Rodney Stoke Parish Council: Refusal.

- The Construction Management Plan as per Condition 7 of the outline planning permission for application 2019/1157 has not been carried out. (officer note: as confirmed later in this report, condition 7 of the outline permission would still need to be complied with and formally discharged.)
- With regard to the access, the Parish Council refer to their previous comments for application 2019/1157 as amended

For clarity the Parish Council comments on 2019/1157/OTA were as follows;

Recommend Refusal

On the following basis:

The Parish Council consider that the density should be reduced to 4 units which would be more appropriate in the middle of this small village.

Further to the amendment letter dated 8th July 2019 regarding drawing ref 1382 - 04 dated 21st June 2019, the Parish Council withdraws its objection regarding the access on Baggs Lane.

Highways Development Officer: No objection subject to conditions.

Environmental Protection: Applicant still needs a Construction Management Plan as per Condition 7.

Archaeology: No objection.

- As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

Environment Agency: No comments received.

Local Representations:

Seven representations have been received. Objections include the following planning issues:

- Highway safety
- Light pollution
- Loss of privacy
- Design of dwellings should be in keeping.
- Impact on ecology
- Principle of dwellings on the site
- Reduction in wall height will reduce character.

Full details of all consultation responses can be found on the Council's website www.somerset.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 (December 2021) (post JR version)

The following policies of the Local Plan Part I 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)
- DP23 (Managing Flood Risk)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The principle of development inside development limits is considered acceptable and has been established by the extant outline planning permission.

Details of the layout, scale, appearance and landscaping for the site are not being considered as part of this reserved matters application. The only matter proposed for consideration is access to the site, and as such this element will be assessed in further detail below.

Design of the Development and Impact on the Street Scene and Surrounding Area:

When viewed from Back Lane, the site is located behind an existing hedge and wall where there is a pedestrian gate. With respect to the creation of the access and its impact on the character of the street scene, representations have been received that express concern about reducing the height of the wall to provide the necessary visibility splays.

In the interests of highway safety, the wall fronting the highway will need to be reduced to 600mm in height. Although walls along this stretch of highway are prevalent, they are of varying heights and there are other examples nearby where the wall has been breached.

Overall It is considered that the creation of the access as proposed will not result in an adverse impact on the character or appearance of the area and as such the proposal is compliant with Policies DP1 and DP7.

Impact on Residential Amenity:

The principle of residential development on this site has been established by the outline permission. Details of design and layout are reserved for subsequent approval and as such the impact of residential development on neighbourhood amenity will be assessed at a later date.

In particular regards to the creation of the access, it is considered that the proposal will not result in harm to neighbour amenity.

Impact on Ecology:

The creation of an access will require the removal of some of the existing roadside domestic garden hedge. This would not require permission from the LPA. If permission is approved the applicant will be reminded via a note on the planning permission that nesting birds and bats are protected and should not be disturbed.

The creation of an access will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Assessment of Highway Issues:

The site comprises a detached dwelling set in a good size plot along Back Lane, an un-numbered classified highway subject to a 20mph speed restriction. The outline application received a favourable response from the Highway Authority to the proposed access subject to the imposition of conditions.

The outline application was conditioned to have no obstruction to visibility above 800mm within the proposed visibility splays. In response to this reserved matters application and following discussions with the highway authority officer any

obstruction within the visibility splay for the proposed access to be kept to a minimum of 600mm.

This arrangements are shown on drawing numbers 1921-RM-01a and 1921-RM-02a which were received on 22nd March 2023 to show this reduced height and based on these drawings the proposal is considered to be acceptable.

As such and because condition 5 (visibility splays) on the outline permission specified a different height the LPA is able to confirm that the condition 5 can be satisfactorily discharged by this reserved matters application.

In summary the means of access is acceptable and maintains highway safety standards. The proposal accords with Policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Impact on Archaeology:

The site lies within an area of high archaeological potential. The Historic Environment Officer did not consider the development would endanger any archaeological remains. Therefore, it is considered the proposal accords with Policy DP3 of the adopted Local Plan Part 1 (2014), and Part 16 of the National Planning Policy Framework.

Environmental Impact Assessment:

This development is not considered to require an Environmental Assessment 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.

Other Matters:

The Construction Management Plan as per Condition 7 of the outline planning permission for application 2019/1157/OTA has been mentioned in the representations received. It should be noted that the reserved matters permission has to be read in conjunction with the outline consent and as such the outline conditions are still relevant.

Recommendation

Approval

Conditions

1. Plans List (Compliance)

This decision relates to the following drawings: 1921-L-01 validated 03.02.23 and 1921-RM-01a and 1921-RM-02a received 20.02.23.

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

2. Vehicular Access (Compliance)

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details shown on drawings 1921-RM-01a and 1921-RM-02a received 20.02.23. The vehicular access shall thereafter be permanently retained in accordance with the approved plans.

Reason: To ensure that suitable access is provided in the interests of highway safety in accordance with Development Policy 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

3. Removal of Permitted Development Rights - Vehicle Visibility Splay (Compliance)

Notwithstanding the provisions of the Town and Country Planning General Development Order 2015 (or any order revoking and re-enacting that Order) there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on the approved plans, drawing numbers 1921-RM-01a and 1921-RM-02a received 20.02.23. The development hereby approved shall not be brought into use or occupied unless such visibility is available and shall retained permanently thereafter.

Reason: To ensure sufficient visibility is provided in the interests of highway safety in accordance with Development Policy 9 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. 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.
3. 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.
4. **Building Regulations Approval**
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. **Legal Protection Afforded to Bats and Bat Roosts**
The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed, and experienced ecologist at the earliest possible opportunity.
6. **Legal Protection Afforded to Nesting Birds**
The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.