

Application Number	2023/0814/FUL
Case Officer	Kelly Pritchard
Site	Land West Of Tanyard Lane North Wootton Shepton Mallet Somerset
Date Validated	8 May 2023
Applicant/ Organisation	G Wilson
Application Type	Full Application
Proposal	Erection of dwellinghouse and garage/store outbuilding.
Division	Mendip West Division
Parish	North Wootton Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

10. **What Three Words: propelled.guitars.cashiers**

Referral to Planning Committee

Following the referral process, the Chairman has requested that this application be considered by the Planning Committee. The officer recommendation is for refusal which is contrary to the views expressed by the Parish Council and the Divisional member

Description of Site, Proposal and Constraints:

The application relates to a field located between existing housing to the west of Tanyard Lane, in North Wootton. There is an existing access onto Tanyard Lane at the eastern end of the plot.

Tanyard Lane is an unclassified road with a 30mph speed limit.

The site has a slight slope from south to north and the property known as Scotton is on higher land. There are a number of trees along the road frontage to the site.

The site is located outside defined development limits.

It is located within a Site of Special Scientific Interest Impact Risk Zone, and is allocated as an open space within Mendip's local plan.

The history shows that planning permission was granted for a two storey house and garage on the plot with a new vehicular access proposed to the south of the existing access. At the time when outline planning permission was granted, the application site was not within the open space allocation, the allocation being to the rear of the site. The site was also with the settlement limits. When the reserved matter application was approved the open space allocation included the application site and as there was an extant outline approval this was material in the consideration and approval of the reserved matters application. These permissions have since lapsed.

North Wootton no longer has a settlement limit.

This application seeks full planning permission for the erection of a single storey, two bedroom dwelling, erection of detached garage/store and alteration the access, moving it further south of the existing but further north than the access consented for the two storey dwelling.

It will be finished in a mixture of timber cladding and render with clay roof tiles.

The application site contains an existing package treatment plant (PTP) for the applicant's dwelling, Home Orchard on the opposite side of the lane. The proposal includes the replacement of the PTP with a new system which will serve Home Orchard and the proposed dwelling.

Relevant History:

- 2013/1124 - Erection of a dwelling and garage and creation of new vehicular access. Outline Approval. 11.07.13
- 2016/2720/REM - Erection of a dwelling and garage and creation of new vehicular access. Approval. 16.12.16

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

Divisional Member: Councillor Heather Shearer supports the granting of planning permission.

North Wootton Parish Council: Approval.

- The applicant is a long standing member of the community and we understand that the application for the building is for the applicant's own use.

Highways Development Officer: Standing advice.

Environmental Protection: We have no objections to this proposal except hours of construction operations due to proximity of other residential:

- 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.

Contaminated Land: No objection, but due to the location of the former tannery neighbouring to the north, it would be advised to keep a watching brief for potential hotspots of contamination.

Lead Local Flood Authority: No comments received.

Ecology: No objection subject to conditions.

Planning Policy: Object.

- Despite Tanyard Lane being lined with residential development interspersed with green space, this proposal cannot be supported. It is outside of development limits, therefore in the open countryside, and in an Open Area of Local Significance (OALS). To build on it would therefore cause harm to the character, the OALS was put in place to protect.

Trees: No objection subject to a condition to secure a detailed arboricultural method statement to support the provided Arboricultural Impact Assessment/Tree Protection Plan.

Local Representations:

One letter of concern has been received about potential damage to property and electricity lines by trees coming down.

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)
- Somerset Waste Core Strategy
- Somerset Mineral Plan (2015)

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)
- DP2 (Open Areas of Local Significance)
- 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 Supplementary Planning Document (SDP) (March 2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Mendips Green Spaces, Policy DP2, DP16, DP1, SPD adopted 06.02.23

Assessment of relevant issues:

Although the planning statement submitted with the application suggests that this proposal is a self-build, no details pursuant to policy DP24: Single-plot Exception Sites for Self & Custom-Build of the Local Plan Part II have been submitted. As such the application will not be determined in this policy context.

Although the planning history includes approval for a dwelling on this site, the permission has expired, and policy has significantly changed since that consent. As such the planning history carries limited weight in the determination of this case and it will be recommended on the basis of the current site and policy context.

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, DP13 and DP22 are not considered to apply here.

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 Core Policies within the Local Plan, which seek to prevent new housing outside the development limits of settlements (CP1, CP2 and CP4) can not be given full weight in the decision making process. 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 proposal is not considered to represent sustainable development by virtue of the site's distance and poor accessibility and connectivity to local services and facilities which would foster growth in the need to travel by private vehicle and is therefore unacceptable in principle.

It is considered that the development of this site would harm the contribution to distinctive local character made by the open area of local significance which will be discussed in more detail below. The limited benefits of bringing forward housing supply and the limited economic benefits do not in this case outweigh the harm identified.

In summary there is no support for the principle of development at either local and/or national level.

As set out above it is considered that the development proposed, located in the open countryside does not accord with the strategic policies of MDLP which seek to achieve the delivery of sustainable housing development and would have a harmful impact encroaching into the countryside with a degradation of the OALS. The development would foster the growth in the need to travel and it does not comply with policies, CP1, CP2, CP4, DP1, DP2, DP4, DP7 and DP9, it is therefore considered unacceptable.

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

Tanyard Lane is lined with residential dwellings interspersed with areas of green space. This application site is one of those areas and is a field with trees around the boundary. The contribution it makes to the quality of the built environment has been recognised in the fact that it has been designated as an OLAS. This open space has been assessed to make a significant contribution to the quality of the area even though it is surrounded by existing trees and hedges.

Mendips Green Spaces SPD was adopted this year and the reason the OLAS was designated is given within annexe 2 of that document. It OLAS is described as follows.

Site is demonstrably special for its beauty and tranquillity – providing a pleasant green area around which the village has developed. It also has historical value, providing the setting of the Grade II Listed St Peter’s Church and footbridge over the Redlake River. A right of way runs through the site and it provides an important wildlife habitat for a number of protected species.*

Policy DP2, says that permission should not be granted for development in open areas of local significance (OLAS) which would harm the contribution to the distinctive local character made by this allocation.

The NPPF is clear that planning decisions should recognise the intrinsic character and beauty of the countryside. In this case the site consists of open countryside and does have a rural character, albeit there are some existing houses either side and opposite the plot.

Any form of built development is considered to urbanise the plot and would significantly impact on the character and landscape of the area, contrary to DP1, DP2, DP4 and DP7.

Impact on Residential Amenity:

The dwelling proposed would be single storey and is sufficient distance from neighbouring dwellings and as such does not harm neighbour amenity.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic or other disturbance. The proposal accords with the element of Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework which seeks to protect amenity of neighbours and future occupiers of the development.

Impact on Ecology:

A preliminary ecological appraisal of the site was carried out in April 2023 and this returned that there were no notable species on site although there was potential in neighbouring ponds/river. Somerset Ecology (SES) have assessed the appraisal and have concluded that biodiversity and its habitat could be safeguarded and enhanced via suitably worded conditions.

If planning permission is granted, then subject to conditions suggested by the SES the proposed development 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 is served by a vehicular access from Tanyard Lane which is a narrow lane with a 30 mph speed limit. The proposed development includes the provision of a new access further south. The submitted block plan shows a visibility splay of 43m in either direction. Traffic is likely to be travelling slower than 30mph due to the narrow nature of the road, as such the visibility splay shown is considered acceptable.

Adequate parking and turning can be provided within the site.

However, the site is in a location which is remote from services and facilities. The roads in the vicinity are narrow, and unlit without pavements. Walking and cycling to local services and facilities would therefore not be practicable or safe and the occupiers of the dwelling would in likelihood be reliant on the private car to access services. This would not accord with sustainability objectives and as such the development does not comply with Policy DP9 or CP1, CP2 or CP4.

Trees:

The majority of the higher value trees are being retained and the replacement on a 2 for 1 basis for those trees lost to the development is welcomed. The submitted statement refers to a new orchard and to having trees planted in the vicinity of the proposed garage and if planning permission is forthcoming this would need to be secured via a landscaping condition.

It is noted that some concern has been raised with regards to the retention of a poplar tree and its potential to fall on neighbouring property. This is not a planning consideration, there are no protected trees on the site, and it is for the applicant to make sure trees on their property are safe.

Subject to receipt and approval of a detailed arboricultural method statement to support the information provided in the Arboricultural Impact Assessment and a Tree Protection Plan, the proposed development will not have an adverse impact on a tree which has significant visual or amenity value. The proposal accords with Policy DP4

of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Land Drainage:

The proposed development will not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Refuse Collection:

The site is considered capable of providing adequate storage space for refuse and recycling.

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.

Conclusion:

Development outside the settlement limits is strictly controlled by virtue of Policy CP1 and CP4 of MDLP. Policy CP2 supports the provision of new housing through a strategic site allocation approach. The dwelling proposed outside the settlement and remote from services and facilities would be contrary to these policies including Policy DP9.

The Council cannot currently demonstrate a five-year housing land supply. Consequently, the housing policies within the development plan are out of date and

this triggers Para. 11 (d) of the NPPF. However, housing policies deemed out of date should still be weighed in the planning balance.

Having regard to paragraph 11 (d) of the NPPF it is considered that the harm resulting from the unsustainable location and the loss of open space would outweigh the benefit of providing one additional dwelling to the housing stock. As such the proposal, located in the open countryside does not accord with the strategic policies of MDLP or Policies, DP1, DP2, DP4, DP7 and DP9 and advice contained within the NPPF.

Recommendation

Refusal

1. The site is located in open countryside, outside the settlement limits and is therefore contrary to the District's settlement strategy, as outlined in Policies CP1, CP2 and CP4 of the Mendip District Local Plan. Siting the development in this unsustainable location would result in a development that would foster the growth in the need to travel. In addition, the development proposed would have an unjustified urbanising effect which would be detrimental to the distinctive local and rural character of Tanyards Lane and the wider site which is protected as an open area of local significance. As the Council cannot currently demonstrate a 5-year housing land supply, the presumption in favour of sustainable development applies, as outlined in the National Planning Policy Framework. For the reasons as set out above, the harm of the proposal would, in this case, significantly and demonstrably outweigh the benefits. As such, the proposal is not considered to constitute sustainable development and is unacceptable in principle. The proposal is therefore considered to be contrary to the provisions of Policies CP1, CP2, CP4, DP1, DP2, DP4, DP7, and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), Supplementary Planning Guidance Mendips Green Spaces adopted 06.02.23 and the National Planning Policy Framework, and Planning Practice Guidance

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. The submitted application has been found to be unacceptable for the stated reasons 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 PL5000/1, PL5000/2, PL5000/3, PL5000/4, Topographic Survey 3688, and drawing SF32332.1.P1 received 08.05.23.