

Application Number	2023/1106/FUL
Case Officer	Jennifer Alvis
Site	Penning Barn Down Lane West Pennard Glastonbury Somerset
Date Validated	16 June 2023
Applicant/	Mr Phil Creed
Organisation	
Application Type	Full Application
Proposal	Replacement of an existing barn with a single storey dwelling and detached annexe
Division	Mendip South Division
Parish	West Pennard Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

6. **What.3.Words:** twee.contain.began

**Scheme of Delegation:**

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

**Description of Site, Proposal and Constraints:**

This site is land south of Down Lane, West Pennard.

Down Lane is a single width carriageway, there is a barn to the south side of the lane which is traditional in character, stone built with a clay tiled roof. It is open fronted on the south side, with fields to the east, west and south. There is a public right of way to the east of the building.

The site is located outside the settlement limits of Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP) and within the Somerset Levels and Moors Ramsar catchment area.

This application seeks full permission for the replacement of the existing barn with a 4no. bed dwelling and associated detached garage with annexe. The site currently

benefits from consent for the conversion of the barn to a dwelling under Prior Approval Class Q (ref: 2022/1905/PAA) and full planning permission (ref: 2022/0917/FUL) for the conversion of the barn with an extension, both of which remain extant.

**Relevant History:**

2019/0152/FUL – Conversion and extension of existing barn to one dwelling.  
Approval. 15.03.19

2022/1905/PAA - Prior Approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development.  
Prior approval given. 04.11.22

2022/0917/FUL - Change of use from an existing agricultural barn to a residential dwelling. - Approved - Nov 2022

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

Ward Member: No comments received.

West Pennard Parish Council: Approval

Highways: Standing Advice

Contaminated Land: No objection.

- Due to the nature of farms, it would be advised to keep a watching brief for potential hotspots of contamination.

SCC Rights of Way: Comment.

- There is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public footpath WS 14/50) at the present time. Any proposed works must not encroach onto the width of the PROW.

SCC Ecology: No response received. Please see ecology assessment as part of this report.

Local Representations: No letters of local representation have been received

Full details of all consultation responses can be found on the Council's website [www.mendip.gov.uk](http://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 (December 2021)
- Somerset Waste Core Strategy (2013)

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

- CP1 (Mendip Spatial Strategy)
- CP2 (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)
- 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
- 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:**

Policies CP1 and CP2 of MDLP 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 12, 13, and 22), which do not apply in this case as the proposal seeks to demolish the existing barn rather than convert it. Policy CP1 directs that new housing should be located in sustainable locations in the 5 market towns and villages near to services and facilities.

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 limited weight. 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 planning history is a material consideration and in 2022, reference 2022/0917/FUL, planning permission was granted for the change of use of the barn, with an extension, to a residential dwelling. That permission remains extant and as such could still be implemented. Prior approval has also recently been granted, reference 2022/1905/PAA, for the change of use of the barn to a dwellinghouse and

for associated operational development. It is accepted that the proposal for prior approval of permitted development need not be subject to an Habitat Regulations Assessment (HRA) and therefore no mitigation with regard to any possible increased phosphate loading can be required. This is discussed further in the ecology section below.

Although the site is outside the settlement limits where development is strictly controlled there is planning history on the site in the form of the two 2022 permissions mentioned above, for the conversion of the barn to a residential dwelling. As these permissions remain extant, they are a material consideration when determining the current application for the demolition of the barn and replacement with one 4no. bed dwelling.

The proposed annexe will consist of an office and wc with a car port to the north. Given the scale and facilities proposed within the annexe it's not considered capable of independent occupation and would remain ancillary to the host house. A condition to ensure the annexe remains ancillary to the main house is proposed, should the application be approved.

The principle of the residential use on this site has been established and is considered acceptable in line with the provision of policy DP22 of MDLP under 2022/0917/FUL. Further consideration of the design of the proposal, and its impact on the character and appearance of the area, highway safety, ecology, neighbour amenity etc. will be discussed below.

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

Although the current proposal is to demolish the existing barn and construct a new build on the site, as opposed to the conversion of the barn as per the previous consent, the new build will be of a similar height, scale and massing as the conversion. The footprint will increase slightly through the enlargement of the southern section of the building but this would not be considered excessive or go beyond what would be considered acceptable should this extension have been proposed at a later stage. The site is large enough to accommodate the increase in footprint and the addition of an annexe without appearing as over-development or cramped.

The proposal remains single storey in height and will be partially screened from the rural lane by the existing high hedge rows. A public footpath also runs down the eastern edge of the site and to the rear of the proposed carport and annexe. The

proposed timber cladding of the car port/annexe would complement the rural character of the area and act as a screen for the rest of the site when viewed from this public vantage point. Although the gradient of the land falls away to the south, the low level design of the dwelling along with the use of local stone and oak timber on the south elevation, which reflects that of the current barn, results in a proposal which will sit comfortably within the landscape without appearing as an incongruous feature.

As matter of planning balance it is considered that the demolition of the redundant building and replacement with a new dwelling sympathetic to the location and size of the site, with associated works, would respect the rural character the area and would lead to an enhancement of the immediate setting in accordance with DP1, DP4 and DP7 of the Local Plan Part 1

### **Impact on Residential Amenity:**

The barn is single storey with no immediate neighbours as such the development proposed would not result in harm to amenity. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

### **Impact on Ecology:**

The application site is mapped by Natural England as falling within the water catchment flowing into the Somerset Levels and Moors Ramsar site, designated for its rare aquatic invertebrates, which is currently in an unfavourable condition. As such the proposal may have the potential to contribute to additional phosphate loading in the Ramsar site. Planning applications for such proposals are normally subject to an HRA under the Habitat Regulations. However, applications for prior approval of permitted development under the provisions of the General Permitted Development Order 2015 (as amended) are treated differently. Natural England have pointed out that ODPM circular (06/05 & 01/2005) advises that permitted development affecting the Ramsar is not required to be subject to HRA through the prior approval process, because the Habitats Regulations relating to permitted development (Regs 75-77, formerly Reg 60) are stated to not apply to Ramsar Sites, as a matter of policy.

The Council has sought advice on this matter and agrees with Natural England's position.

On this basis and taking into account the approval to convert the existing barn on the site into a residential dwelling (LPA case ref: 2022/1905/PAA) it is considered that the applicant has a legitimate implementable scheme to deliver a dwelling on the site, It is therefore considered that a Habitats Regulations Assessment in this instance is not required.

The proposed annexe is not considered capable of independent occupation given the scale and facilities proposed. As such it would be associated with the main house and not result in additional phosphate production.

Conditions are recommended to safeguard other ecological habitat across the site and to achieve biodiversity net gain as shown on drawing 1698/071 B.

The proposed development will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

#### **Assessment of Highway Issues:**

There is an existing field gated entrance to the site which will be utilised to serve the proposed dwelling and has previously been considered acceptable as assessed under 2022/0917/FUL. There is ample space within the site for the parking and turning of vehicles.

Given the topography of the lane and the likely traffic speeds it is considered that the means of access and parking arrangements are acceptable and maintain highway safety standards. 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.

#### **Drainage:**

While a drainage engineer did not comment on this application, it's considered reasonable to reimpose the drainage conditions as recommended on the previous consent on the site under ref; 2022/0917/FUL

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.

## **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, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **Conclusion and Planning Balance:**

The overall thrust of Government Policy as set out in the updated NPPF is to encourage the delivery of sustainable development and requires Local Authorities to boost significantly the supply of housing. As the Council cannot demonstrate a 5 year housing land supply, this application is considered in the tilted balance as set out in para 11d of the NPPF is engaged, confirming that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

In this case no material harm has been identified regards the application proposal - refer to assessment above. The fact that the site already benefits from permission for a barn conversion is recognised and taken into account in arriving at this conclusion, and should be given significant weight.

In summary, given that the site already benefits from a fall back position in the barn conversion, the new proposal will not result in any additional harm above that already permitted in terms of sustainability, and no material harm has been identified. The application is therefore recommended for approval 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: 1698/001, 1698/002, 1698/010, 1698/020, 1698/021, 1698/032A, 1698/060A, 1698/061, 1698/062A, 1698/070A, 1698/071B

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

### **3. Materials (Compliance)**

The development hereby approved shall be carried out using external facing and roofing materials as specified on the Schedule of Materials ref; 1698\_Penning Barn.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

### **4. Access, Parking and Turning Areas (Pre-occupation)**

No occupation shall commence until the access, parking and turning areas have been constructed in accordance with details shown on the approved plans. The vehicular access, parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Surface Water Drainage System (Pre-occupation)**

Prior to occupation of the development a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policies DP8 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Drainage - Foul (Pre-occupation)**

Prior to occupation of the development a detailed scheme for the disposal of foul drainage from the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the dwelling.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment in accordance with Development Policies 8 and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Nesting Bird Protection (Bespoke Trigger)**

No development or demolition of the existing roof structures, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st September unless a survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No development to the roof, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: To protect nesting birds and prevent ecological harm in accordance with Development Policy 5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018) shall be submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the agreed details and maintained as such thereafter. No other external lighting shall be installed.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and protecting the character and appearance of the countryside in accordance with Development Policies 1, 4, 5, 6, 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

9. **Biodiversity Enhancement (Net Gain) (Pre-occupation)**

No occupation shall commence until the following have been installed within the application site:

- a. erection of an Eco Barn Owl nest box (or similar design) within a suitable tree or building at least 3 metres above ground,
- b. a Beaumaris Woodstone maxi bat box or similar to be mounted under the apex of the west elevation of the proposed dwelling (as shown on drawing ref; 1698/071B)
- c. three artificial nest cups for nesting swallows within the car port (as shown on drawing ref; 1698/032A)
- d. other biodiversity net gain features as shown on drawing ref 1698/071B and 1698/032A

Evidence, to include photos, of the implementation of these features shall be submitted to the Local Planning Authority for written approval. The bat box and nesting provisions shall be retained thereafter in perpetuity.

Reason: To provide biodiversity net gain in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework.

10. **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 or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area and in accordance with Development Policies 1, 4, 7 and 22 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. Due to the nature of farms, a watching brief should be kept for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.  
If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.
6. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

7. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. 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.
  
8. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.