

Application Number	2023/0106/OUT
Case Officer	Carlton Langford
Site	Land At 374917 143839 Foghamshire Lane Trudoxhill Frome Somerset
Date Validated	31 January 2023
Applicant/ Organisation	Mr & Miss Mark & Anita Brass & Glover
Application Type	Outline Application
Proposal	Application for Outline Planning Permission with some matters reserved for Erection of 1no. single storey dwellinghouse with details of access/landscaping/layout/scale.
Division	Mendip Central And East Division
Parish	Trudoxhill Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

What 3 Words: spouting.goggle.weep

Referral to Planning Committee:

The application has been referred to the Planning Committee as the recommendation to approve represents a departure from Local Plan Policy.

Description of Site, Proposal and Constraints:

This application relates to land within the curtilage of Holmlea, a semi-detached property situated near the centre of the village of Trudoxhill. The site forms part of the garden to Holmlea and currently supports a double garage building.

The site has boundaries with residential properties to the southeast and southwest and the village hall and children's play area to the north. Access is achieved over a private lane off Froghamshire Lane which also serves Snowdrop Cottage, Village Hall and Play Ground, and access to agricultural land.

The site is within an area of high archaeological potential, a bat consultation area (Mells Valley) and a Public Right of Way which extends along the private access lane.

This application seeks outline planning permission for the erection of 1No. dwellinghouse with details of access, landscaping, layout and scale to be approved with the appearance

of the dwelling to be considered through the submission of an application for reserved matters.

The applicant has amended the scheme with the scale of development being reduced to a single storey dwelling unit which included a slight increase to the ground floor footprint (layout).

Relevant History:

No relevant planning history.

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

Ward Member: I find myself in full agreement with the comments of the Parish Council.

Parish Council: Recommend refusal –

The Council has concerns that the new dwelling, neighbouring the village hall has the potential to disrupt a vital community asset from functioning (noise)

Secondly the community worked hard for 25 years to create the village playground which would be bordered and severely overlooked by this new dwelling. Children access the playground by the lane and there are safety concerns from multiple angles.

Lastly, the new parking arrangements have 4 cars reversing out onto a lane where children play and regularly access the playground and there were multiple expressions of concern for their safety should this development continue as planned.

Revised scheme - Without any elevation or sketch details accompanying the updated submission; and with an increased footprint and similar bedroom count, the council could not confirm that the new design did anything to assuage previous concerns - there still exists a large possibility of damaging the operation and use of amenities core to the parish in the playground and the village hall. Similarly the parking arrangements continue to pose a safety hazard directly onto an access road used frequently by pedestrians and children. The council recommendation remains for refusal.

Highways Development Officer: Standing advice.

Rights of Way: No objections subject to the imposition of a standard advice note.

Archaeology: No objections.

Environmental Protection: No objections to this proposal except for the need for acoustic fencing along the boundary with the village hall and play area to be agreed through condition and to limit hours of construction operations through condition due to proximity of other residential properties.

Local Representations: 10 letters of objection have been received raising the following summarised issues:

- Overlooking of playground
- Overshadowing of playground
- Existing activities at the village hall and playground impacting on residents of proposed dwelling (noise)
- Existing use of the village hall and playground being prejudiced by the siting of the proposed dwelling.
- No accessible bus route.
- Limited village facilities (Pub, Village Hall and playground only)
- Highway safety, increased traffic.
- Child safety (cars reversing onto the private lane)
- Impact on heritage assets (Congregational Chapel)
- Construction traffic nuisance
- Loss of trees
- Excessive mass of building
- Flooding
- Greenfield site
- Loss of hedgerow (Ecological Harm)
- General inaccuracies with the plans and on the application forms.

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

Policies/Legislation:

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 (Spatial Strategy)
- CP2 (Housing)
- CP4 (Sustainable Rural Communities)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendips Landscapes)
- DP5 (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)

Local Plan Part 2 – Emerging Policies

None

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

Trudoxhill is a small settlement situated within the open countryside and has no development limits. As such, development within the settlement should be strictly controlled and exceptions only permitted in line with the provisions of Policy CP4 of the Local Plan to meet specifically identified local needs within the community, which the development is not.

However, the spatial policies/ strategy of the Local Plan Part 1 (Policy CP1 and CP2) cannot be afforded weight in the decision-making process with regard to this application, as the

local planning authority cannot currently demonstrate a five-year supply of deliverable housing sites.

Therefore, the development has to be assessed against the criteria of Paragraph 11(d) of the National Planning Policy Framework (NPPF), which sets out a decision-taking framework that states. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, read together with its footnote 6; or
- ii. 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.

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

Trudoxhill is not a village identified in the adopted Local Plan as a sustainable location for growth, but there is a pub, a village hall, and a church. Although it cannot be considered that the application site is a truly sustainable location, there are some services and facilities which means that future occupiers along with the existing residents would have access to some services without having to rely on private vehicular travel. This aspect and others of the proposal will be assessed below, and all of the factors weighed in the balance at the end of this report.

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

The application site forms part of the garden of Holmlea which wraps around the neighbouring property Snowdrop Cottage. The site has boundaries with the Village Hall, playground and an agricultural field to the north, Snowdrop Cottage to the southeast and residential properties to the southwest. Access is derived via a private lane off Froghamshire Lane and the site currently supports a double garage and off-street parking. The site is not isolated and represents a logical infill plot.

The proposal is to demolish the double garage and erect a single storey dwelling with a maximum ridge height of 6m. The layout will respect the existing building line along the private road established by Holmlea and Snowdrop Cottage.

Whilst the appearance of the dwelling is reserved, the siting, scale and layout of the dwelling will sit comfortably within the plot allowing a modest garden to the rear and off-street parking for up to 3 vehicles at the front.

Subject to restricting the height of the building and its appearance being considered under reserved matters, the development will be of a scale, mass, form and layout appropriate to the local context in accordance with policy DP7 of the Local Plan.

Impact on Residential Amenity:

As a single storey development, the proposal raises no adverse amenity issues of overlooking or overshadowing.

Whilst the dwelling will have boundaries with the village hall and a children's playground, the Council's Environmental Protection Team have raised no objections to the proposal. The activities at the hall and playground have raised no noise disturbance complaints to date and the licensed opening hours at the hall do not extend after midnight except on new year (1am). However, it is thought necessary that to ensure existing amenity levels are maintained and not prejudiced between neighbouring uses, it is recommended that a 2m high acoustic fence be erected between the site and the hall.

It is also recommended that a condition be imposed which restrict construction hours on site in the interests of neighbouring amenity.

The proposal subject to the erection of acoustic fencing and limiting construction hours, will ensure the protection of the amenity of users of neighbouring buildings and land uses and provide a satisfactory environment for current and future occupants in accordance with Policies DP7 and DP8 of the Local Plan.

Assessment of Highway Issues:

Access to the site as is the current situation, is derived off a private road leading from Froghamshire Lane and is acceptable in terms of highway safety and 3 off street parking spaces will be provided in accordance with the Countyside Parking Strategy. Holmlea will retain its existing off-street parking off Froghamshire Lane and the Public Right Of Way along the private lane will not be lost or obstructed by the proposal.

Whilst concerns have been raised regarding vehicles backing out onto the private land which might impact on users of the lane including pedestrians using the Right of Way, the access arrangement are existing and the proposed development will have no greater an adverse impact on road safety over or above that which currently exists.

The proposal raises no new highway safety concerns and adequate off-street parking provision has been demonstrated in accordance with Policies DP9 and DP10 of the Local Plan.

Waste and Refuse:

Ample space on site for the storage of refuse and recycling bins.

Other Matters not already addressed:

Impact on heritage assets (Congregational Chapel)

The application site shares no boundaries with the nearest heritage asset, the site/land has never had a historic association with any nearby heritage assets and there is a clear degree of separation between the site and nearby heritage assets. The views of nearby heritage assets glimpsing or otherwise from the surrounding area will not be compromised by the erection of a single storey building.

Loss of trees

None of the tree on site are protected or worthy of protection and the site is not within a Conservation Area.

Flooding

Land within flood zone 1 has a low probability of flooding from rivers and the sea and the council's records show a low risk from surface water flooding on or around the site.

The management of surface water on site will be dealt with under building regulations should planning permission be granted.

Foul drainage will be via an existing mains system.

Greenfield site

The site forms part of an existing domestic curtilage and therefore not a 'Greenfield' site.

Loss of hedgerow (Ecological Harm)

None of the site's hedgerow is protected under legislation being domestic hedgerow. However, it will be expected that the ecological protection, mitigation and enhancements within the Ecology Survey are implemented which can be achieved through condition.

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:

Paragraph 11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning 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. Given the lack of a five-year housing land supply, paragraph 11 d) of the Framework is engaged.

The benefits of the proposal would include contributing a new dwellings, which would make some contribution to assisting the Council's shortage of housing land within the District as a whole, would have economic benefits for the duration of the construction phase and ongoing in supporting local facilities.

However, the amount of weight given to these benefits is limited by the fact that the proposal would be in an unsustainable location. However as set out in the technical assessment in this report following the revisions to the application scheme no demonstrable harm has been identified. The proposal is located within the heart of the settlement in amongst the existing built extent of the settlement. As such, it would appear as a logical small infill within the village.

As a proposed small bungalow property (appearance to be agreed) the proposal will relate to other similar developments in the immediate vicinity, the proposal raises no adverse amenity nor highway safety concerns and there are no other material considerations which might preclude development.

In the absence of any specific identified and demonstrable harm, and taking into account, the albeit limited benefits, a recommendation for approval is on balance considered justified.

Recommendation

Approval

Conditions

1. Outline Time Limit (Compliance)

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Reserved Matters Time Limit (Compliance)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

3. Reserved Matters (Pre-commencement)

Approval of the details of the (a) appearance of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

4. **Parking (Pre-occupation)**

No occupation of the development shall commence until the parking spaces as shown on Drawing Number AL(1)02 REV B have been provided on-site and should be retained permanently thereafter.

Reason: To ensure that adequate and safe parking is provided 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. **Acoustic Barrier/fence (Pre-occupation)**

No occupation of the dwellings hereby approved shall commence until the 2.0m high acoustic barrier/fence in accordance with details to be first submitted to and approved in writing by the Local Planning Authority, has been constructed along the west boundary with the Village Hall. The barrier/fence shall thereafter be retained as approved.

Reason: To safeguard the amenities of the users of the dwellings hereby approved from noise disturbance and ensure neighbouring uses are not prejudiced in accordance with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Design type and maximum height (Compliance)**

The dwelling hereby approved shall be of a single storey design and appearance not exceeding a height of 2.5m to the eaves and 6m at the ridge.

Reason: To safeguard the residential amenities of occupiers of nearby properties in accordance with Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Construction Hours (Compliance)**

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

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

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

Reason: In the interests of protecting residential amenity in accordance with Policy DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **Implementation of wildlife protection and enhancements (Pre-occupation)**

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs where appropriate, implementation of the recommendations set out within the Ecology Appraisal (Nov 2022) to include any further surveys,

precautionary protection measures and biodiversity enhancements, has been submitted to and approved in writing by the Local Planning Authority.

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

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

No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design.

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

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

10. **Removal of Permitted Development Rights - No extensions or alterations to roof (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 external alteration, extension or enlargement to the roofs of the dwelling hereby approved 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 to safeguard the residential amenity of neighbouring residents in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) hereby approved, other than those

granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

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

12. **Plans List (Compliance)**

This decision relates to the following drawings:

AL(1)01 REV-B

AL(1)02 REV B

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

Informatives

1. 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.

2. **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.

3. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
4. 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.
5. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.

