

Application Number	2023/0167/VRC
Case Officer	Carlton Langford
Site	Duke Of Cumberland Inn Edford Hill Holcombe Shepton Mallet Somerset
Date Validated	7 February 2023
Applicant/	T Brett
Organisation	Banwell House Pub Co Ltd
Application Type	Variation or Removal of Conditions
Proposal	Removal of conditions 3 (Delivery Hours) and condition 9 (Parking) on consent 2020/0242/FUL (The conversion of a free house into a farm shop and kitchen cafe. Attached micropub and side extension for added seating areas. First Floor alterations for 2 separate staff accommodations.)
Division	Mendip Hills Division
Parish	Holcombe Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

10. **Referral to Ward Member/Chair and Vice Chair:**

The application has been referred to the Planning Committee at the request of the Chairman and as the case officer's recommendation to refuse differs from that of the Parish Council.

Since the officer recommendation was completed on this application approval has been granted for a self contained car park away from the pub site under LPA case ref:2022/1618/FUL.

Notwithstanding the provision of this additional car parking as approved (but not yet delivered), the arrangements for deliveries to the pub and the changes to the use of the area for vehicular parking directly opposite the pub site which are proposed and considered below remain unacceptable for the reasons as set out in the report.

Description of Site, Proposal and Constraints:

This application relates to the Duke of Cumberland Inn, Holcombe.

The site has planning permission which has been implemented for the conversion of the free house into a farm shop and kitchen cafe. Attached micropub and side extension for added seating areas which included first floor alterations for separate staff accommodations.

Attached to this permission were the following conditions –

Condition 3 - Deliveries shall be taken at or despatched from the site only between Monday - Saturday 07:00 hours till 20:00 hours, and not at any time on Sundays or on Bank or Public Holidays.

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Condition 9 - The areas allocated for parking and turning on the submitted plan DT076A (REVISED SITE MAP) shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

This current application seeks to remove condition 3 to allow unrestricted delivery times to the site and to remove condition 9, allowing the unrestricted use of the carparks and therefore, the siting of a bin store within the car park to the north.

Relevant History:

2020/0242/FUL - The conversion of a free house into a farm shop and kitchen cafe. Attached micropub and side extension for added seating areas. First Floor alterations for 2 separate staff accommodations – Approved Nov 2020.

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

Ward Member: No response

Parish Council: Recommend approval.

Highways Development Officer: Recommend refusal for reasons of loss of parking and highway safety.

Environmental Protection: Object - To protect the amenity of the adjacent residential properties EP object to any change to Condition 3, as 0700 is early enough for deliveries in this rural setting and Condition 9, as siting of the bins on this car park has caused considerable problems with overspill of refuse and resulting odours.

Local Representations: 3 letters of objection have been received raising the following summarised issues:

1. Noise disturbance
2. Loss of parking
3. Highway safety

1 letters of support have been received.

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

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)

- Somerset Countywide Parking Strategy

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

- CP1 – Mendip Spatial Strategy
- CP3 – Business Development
- DP7 – Design and Amenity
- DP8 – Environmental Protection
- DP9 – Transport Impact
- DP10 – Parking Standards

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The principle of development is already established on site in accordance with permission ref: 2020/0242/FUL and the conditions attached thereto.

This application seeks to remove conditions attached to the aforementioned permission to allow unrestricted delivery times and unrestricted use of the car parks which will be assessed against all policies within the Development Plan.

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

The applicant suggests that the condition to restrict the use of the car parks for parking has meant that refuse bins are stored elsewhere on site which encroach on customer enjoyment and potentially create a pest and smell issue closer to the seating area.

The application merely outlines on plan an area where bins will be located permanently within the north car park with no mention of an enclosure or screening. The bins will be prominent within the street scene when viewed from the highway and surrounding area.

Policy DP7 requires, amongst other things, that developments be appropriate within context ensuring attractive places for current and future occupants. In this regard, an open bin storage area will be an unsightly addition to the car park area having a detrimental impact on the character and appearance of the street scene and wider area.

Impact on Residential Amenity:

Permission for the development under planning permission ref:2020/0242/FUL was only considered acceptable in terms of neighbouring amenity, if deliveries to and from the premises were restricted to the relatively generous hours as stated within condition 3 –

Condition 3 - Deliveries shall be taken at or despatched from the site only between Monday - Saturday 07:00 hours till 20:00 hours, and not at any time on Sundays or on Bank or Public Holidays.

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

The Council's Environmental Protection Officer has reviewed the proposal again with regard to removing this condition and as on the previous permission maintains that deliveries outside of the restricted hours would have a detrimental impact on nearby residents and other land users contrary to the provisions of Policies DP7 and DP8 of the LP.

The removal of condition 9 would allow the unrestricted use of the car parks and the relocation of bins from the main premises to an area within the north car park. Again, the Environmental Protection Officer has reviewed the proposal and has concluded that the bins will be sited closer to neighbouring residential properties with the potential to cause considerable problems with overspill of refuse and resulting odours contrary to Policies DP7 and DP8 of the LP.

Assessment of Highway Issues:

As set out in the Highway Authority response to the original planning application, application ref: 2020/0242/FUL, the number of parking spaces as proposed were at the lower level of acceptability but were considered appropriate. It is noted that the proposed location for the bin store would not directly affect the number of parking spaces, it does have a severe detrimental impact to the ability to use two of the spaces, by eliminating the space required to manoeuvre in and out of them, this may lead to additional indiscriminate parking on the public highway.

The proposal would result in the loss of off-street parking encouraging the parking on the highway interrupting the free flow of traffic and thereby adding to the hazards of the highway contrary to Section 9 of the National Planning Policy Framework (NPPF) and Policies DP9 and DP10 of the LP.

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:

The removal of condition 3 and 9 of permission ref: 2020/0242/FUL would result in unacceptable harm in terms of amenity loss, highway safety, loss of parking and visual harm contrary to the provisions of Policies DP7, DP8, DP9 and DP10 of the Local Plan, the Somerset Countywide Parking Strategy and Policies within the National Planning Policy Framework to include those within Chapters 8, 9 and 12. The harm as identified in this case weighs considerably against any benefits which might be borne by the removal of the conditions and the application is therefore, recommended for refusal.

Recommendation

Refusal

1. The open storage of refuse bins within the car park will introduce an unsightly addition to the car park area having a detrimental impact on the character and appearance of the street scene and wider area contrary to the provision of Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
2. The removal of condition 3 would allow unrestricted delivery times to and from the premises which would have a detrimental impact on the residents of nearby residential properties and other land users by reason of traffic noise and noise disturbance associated with the loading and unloading of vehicles and manoeuvring of vehicles contrary to the provisions of Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
3. The removal of condition 9 would allow the unrestricted use of the car parks and the relocation of bins from the main premises to an area within the north car park closer to neighbouring residential properties to the detriment of their amenity by reason refuse odour nuisance and noise disturbance contrary to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
4. The proposed development would in the LPA's view prejudice the safe use of the existing and approved car parking arrangement as approved under LPA case ref: 2020/0242/FUL would therefore be likely to encourage the parking of vehicles on the public highway, which would interrupt the free flow of traffic, thereby adding to the hazards of highway users at this point. The proposal is therefore contrary to Section 9 of the National Planning Policy Framework (NPPF), the Somerset Countywide Parking Strategy and Policies DP9 and DP10 of the Mendip District Council Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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 Location Plan and drawing number 1A.

