

Application Number	2023/1779/FUL
Case Officer	Kelly Pritchard
Site	Land At Burcott House Farm Pennybatch Lane Burcott Wells Somerset
Date Validated	19 September 2023
Applicant/ Organisation	Lansdown
Application Type	Full Application
Proposal	Change of use of land from Agricultural to Residential (Use Class C3), erection of 1no. dwelling & associated works.
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

What Three Words: wings.converged.sketch

Planning Committee:

In accordance with the scheme of delegation, this application was referred to the Chair and Vice-Chair of the Planning Committee as the case officer recommendation is to refuse, and the Parish Council recommended approval. As a result of this consultation the vice chair said that as the parish response is at odds with the officer report he would like the application to be heard by the Planning Committee.

Description of Site, Proposal and Constraints:

The application relates to Burcott House Farm which is located on the south side of the B3139 Wells Road and has two vehicular accesses, one from Wells Road, and the other from Pennybatch Lane which is to the east of the farm.

The application site is a triangular piece of agricultural land to the south west of the main farm complex at Burcott House Farm. Its backdrop is the rising land further south west and the barn converted to a dwelling at the foot of the woods there. (Application number 2016/1990/FUL). The land is located toward the rural edge of the existing farm complex. The farm and its buildings have a mix of uses including some residential units and holiday accommodation. The former farmhouse is a grade II listed building but is some 158m from the application site.

The site is within the Internal Drainage Boards consultation zone. The site is also within a Special Landscape Feature (Ben Knowle Hill) designated in the Local Plan. It's also within the Somerset Levels and Moors Ramsar Risk Area, the Indicative Non Ramsar WRC and a Site of Special Scientific Interest Impact Risk Zone.

The site is outside the settlement limits in open countryside.

The application seeks full planning permission for the erection of a dwelling and garage.

This application follows an outline application for a dwelling on this site, reference 2019/1752/OTA which was dismissed at appeal in July 2020 and a full application, reference 2021/2894/FUL, which was refused in 2022 for a dwelling on this site. The current application is the same as 2021/2894/FUL except it provides more information on ecological matters supplying a Nutrient Neutrality Assessment and Mitigation Strategy NNAMS, a shadow HRA and drainage information.

The house is proposed to be finished in stone under a slate roof. The garage will be timber clad with slate roof and solar panels.

Relevant History:

- 2016/1990/FUL – Approval - Conversion and extension of agricultural barn to form a dwelling. 11.11.16 (This does not refer to the application site but is referred to later in this report)
- 2019/1759/FUL - Conversion of redundant agricultural barn to 2 bed dwellinghouse. Withdrawn. 17.02.20

- 2019/1752/OTA – Erection of dwelling. Refused 27.09.19. Appeal dismissed. 28.07.20
- 2021/2894/FUL – Erection of dwelling. Refused. 07.04.22

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

Vice Chair: As the Parish response is at odds with the officer report I would like this one to be heard by the committee.

Divisional Member: No comments received.

St Cuthbert Out Parish Council: Approval. The main grounds for improving are;

- Design and appearance, impact on public visual amenity. – dwelling would not be visible and would replace an area of land where various agricultural equipment is stored.
- Access, highway safety or traffic generation. – there are tracks either side and very little passing traffic would be evident. The site is within walking distance of bus stops and the community shop.
- A drainage report and phosphate mitigation has been provided.
- A dwelling would contribute to the 5 year housing supply quota and would provide accommodation for a 4th generation family that work on the farm.

Wookey Parish Council: Although the proposed site for the house is in St Cuthbert Out Parish, Wookey Parish have commented because the access to the site from the B3139 falls within their parish. Wookey PC recommend refusal, as it does not comply with CP1 as it is outside the development limit. No phosphate mitigation report available and therefore unable to comment.

Contaminated Land: I have no objections to the planning application.

Somerset Drainage Board: No objection subject to a condition that the thresholds are raised 150mm above surrounding ground levels. The development shall only be carried out in accordance with the approved surface water drainage strategy. An informative should be imposed reminding the applicant that land drainage consent is required.

Ecology: Sufficient information has been provided by the applicant, comprising a shadow HRA and NNAMS, to assume that no likely significant effects will be expected on the Somerset Levels and Moors Ramsar/ SPA as a result of the proposed development. Conditions to be attached to the consent.

Originally, SES were objecting due to the absence of further survey information concerning bats and the impact of light spill from the development and reptiles. However, after further discussion with SES they are content to rely on a suitably worded condition.

Natural England: Comments awaited, they have until 02.09.24 to comment.

Somerset Waste Management: Somerset Council Waste Services has no objection to this proposal in principle, however would request that there is sufficient space provided for the containers to be brought to the adopted highway for collection (perhaps by constructing a bin storage area for all the properties using the road) as the property is more than 45m away (30m for resident and 15m for crew is maximum recommended transportation distance) from the collection point.

Local Representations:

We have received four comments on the application and their comments are summarised below:

- The family are a huge asset to the community.(Not a relevant material planning consideration)
- The area of land is a dumping ground for surplus items and a dwelling here would be an enhancement.
- Services already run alongside the site to other existing developments.
- The development will provide a house for local family and support the economy.

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 strongly 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) (MDLP)
- 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
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards

- DP23 – 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:

On this site, an outline application 2019/1752/OTA which was for a dwelling with all matters reserved for subsequent approval was refused and dismissed at appeal.

The Inspector commented;

“I am mindful that the location of the site is within a reasonable walking distance of facilities in the village and close to a bus route, however this proximity alone would not override the fundamental objection to development in the open countryside for which there is no proven rural need.”

The Inspector further comments;

“The proposal would introduce built form on a site where there are no buildings unacceptably eroding the rural character of the area and introducing additional built form into the countryside within an area where development is strictly controlled, and which is part of a Special Landscape Feature.”

The appeal was dismissed as the proposal would lead to the unacceptable erosion of the rural character of the area. The harms which would be caused in respect of the

unsustainable location and the character of the area would significantly and demonstrably outweigh the benefit of providing one additional dwelling.

Subsequently a full application was submitted, and this application was also refused, reference 2021/2894/FUL. The reasons for refusal were as follows;

- 1. The development does not accord with the objectives of policies CP1, CP2 and CP4 of the Mendip District Local Plan Part I with regards to strictly controlling development outside the Development Limits and the approach to the delivery of housing therefore as a matter of principle it is unjustified. The proposal for unjustified development in the open countryside would erode the rural character of the area and be harmful to its intrinsic character and beauty and would be located in an unsustainable location. The limited benefits of bringing forward housing supply and the limited economic benefits for the wider community do not in this case outweigh the harm and adverse impacts that have been identified. The development fails to accord with the objectives of Policies CP1, CP2, CP4, DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014) and advice contained within the National Planning Policy Framework.*
- 2. Insufficient information has been submitted to assess whether the proposal would result in an unacceptable increase in phosphate levels within the foul water discharged from the development affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site and as such fails Regulation 63 of the Habitat Regulations 2017, including information on any necessary control mechanisms for delivery, monitoring and maintenance. The proposal is therefore also considered to be unsustainable development pursuant to paragraph 182 of the National Planning Policy Framework. The development therefore conflicts with Policies DP5 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), para 182 and Part 15 of the National Planning Policy Framework.*
- 3. The Local Planning Authority are of the view that in the absence of a complete land drainage strategy for the site, it has not been demonstrated to the satisfaction of the Local Planning Authority, that the increase in surface water runoff associated with the development can be suitably managed on or off the site and therefore, it cannot be ensured that the development will not increase flood risks elsewhere. The proposal would conflict with Policy DP23 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Part 14 of the National Planning Policy Framework.*

The current application is the same as the previous and seeks to address the aforementioned reasons for refusal. This application provides more information including a NNAMS and a shadow HRA and a drainage strategy which will be assessed later in this report. However, it is considered that the principle of a dwelling in this location does not accord with the development plan.

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. 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) 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 site is located to the south of the settlement boundary of Wookey which is a secondary village in the local plan offering some services and public transport. The Inspectors comments on the outline application for this site acknowledged that the site was within a reasonable walking distance of facilities in the village and close to a bus route, she goes onto to say this proximity alone would not override the fundamental objection to development in the open countryside for which there is no proven rural need. She concludes that with regards to para 11, nonetheless the harms which would be caused in respect of the unsustainable location and the character of the area would outweigh the benefits of one house.

Reflecting on these comments along with the more recent refusal on this site, it is considered that the development is in an unsustainable location.

It is considered that nothing has significantly changed in terms of the principle of the development since the appeal decision where the Inspector said the harms which would be caused in respect of the unsustainable location and the character of the area would significantly and demonstrably outweigh the benefit of providing one additional dwelling to the housing stock, or since the last refusal. As such the proposal, located in the open countryside does not accord with the strategic policies of MDLP and advice contained within the NPPF and reason 1 has not been overcome.

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

The application proposes a one and half storey detached stone-built house with a detached double garage clad in timber.

The site is within a Special Landscape Feature (Ben Knowle Hill) designated in the Local Plan.

Both this application and the last one was accompanied by a landscape character statement.

Ben Knowle Hill is a special landscape feature, and its key feature is its topography, a prominent hill. It is considered that although the dwelling is not proposed on the hill, it will be on the level land around it and as such will affect how the hill is read in the landscape. The site is at the end of a dead-end track on the outskirts of the farm where there is no noticeable built development. It is recognised that planning permission has been granted opposite at Somerleaze House, (references 2021/1165/OTS and 2022/0484/REM), but that site has a different set of circumstances. The development proposed was replacing existing structures and at the time was not thought to impact on the Ramsar site. There is a dwelling known as Rialto Barn further to the south west of the application site but this was also approved under different circumstances and involved the conversion of an existing building (reference 2016/1990/FUL).

Whilst the design of the development proposed is not objectionable, it is not outstanding either and it will introduce built form on a site where there are currently no buildings. Notwithstanding that the applicants are proposing hedge planting around the site, the development proposed results in erosion of the rural character of the area and domesticising the intrinsic character and beauty of the countryside. It is therefore concluded that this current application proposals has not overcome the first reason for refusal as referred above.

Impact on Residential Amenity:

There are no nearby neighbours, and as such there would be no harm to amenity. Due to its isolation, it could be occupied providing a satisfactory environment for future occupiers.

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 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 falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates, and a Site of Special Scientific Interest Impact Risk Zone. There is a major issue with nutrients entering watercourses, which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within drainage discharges. As the designated site is in 'unfavourable' condition any increase, including from single dwellings is seen as significant, either alone or in combination with other developments.

The impact of the development on a Ramsar site, by way of the potential to increase phosphate levels, is a material consideration. Therefore, the drainage details, with particular regard to phosphate generation and mitigation, are required to inform the Habitat Regulations Assessment for the current application, in order for the LPA to discharge their legislative duties in this respect.

The application is supported by a Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) to demonstrate how the issue of phosphates and foul drainage will be dealt with to mitigate the impact of the development to the Somerset Levels and Moors Ramsar. A shadow Habitats Regulations Assessment has also been submitted. The proposed development does not meet the guidance for small scale thresholds as the proposed drainage strategy is to watercourse. The residual total phosphate load will be mitigated through the upgrade of a treatment plant at Rialto Barn with a package sewage treatment plant. SES has confirmed that this principle is acceptable and Natural England have now been consulted, their comments are awaited. If this application were approved, as the

new PTP would serve more than one dwelling (the application site and Rialto Barn) and because it does not fall within the red line of the application its delivery and upkeep would need to be controlled via a legal agreement.

With regards to other ecological matters, a preliminary ecological appraisal comprising a walkover survey has been undertaken. The report notes the presence of the River Axe Local Wildlife Site (LWS) to 24m north, Ben Knowle ancient woodland LWS 21m west, Ben Knowle Hill LWS comprising species rich calcareous grassland to the south west, and Hayhill LWS to the south. In addition, Coastal Floodplain Grazing Marsh Priority Habitat lies south of the site.

SES originally commented that because of these factors, the application site lies within an ecologically sensitive area where further development is not recommended, and they wanted further surveys to be undertaken. However, on reviewing further details submitted by the applicant's agent they are now satisfied to rely on suitably worded planning conditions to safeguard onsite ecology/habitat including bats, reptiles etc.

It is considered that should the development be approved subject to appropriate and suitably worded planning conditions and subject to a legal agreement to secure the phosphate mitigation that refusal reason number 2 has been overcome and the development proposed would be compliant with Policies DP5, DP6 and DP8 of MDLP.

Assessment of Highway Issues:

It is envisaged that the development will be served from the existing access, which is also used by an existing residential barn conversion to the south west of the plot known as Rialto Barn. It is a considerable distance to the application site from the public highway along existing private access tracks. The private routes provide access to a number of uses and other residential properties and a farm complex that gain access to the wider world via entrances onto either Pennybatch Lane or the Wells Road. It is considered that in the context of the existing traffic movements that are already likely to occur here the addition of a further new dwelling would not materially affect highway safety over and above the existing arrangements.

It is considered that there is adequate parking and turning within the site.

Land Drainage:

The site is located in Flood Zone 1 and is shown to be at very low risk of surface water flooding on the Environment Agency's Long Term Flood Risk Map. The access track is shown to be at high risk of surface water flooding. Soils mapping indicates slightly acid loamy and clayey soils with impeded drainage. The submitted drainage strategy shows that soils on site were not suitable for infiltration and as such SUDs features are proposed. In addition, it is recommended that the finished floor levels of the building should have a minimum threshold of 150mm above the current land profile.

Foul drainage will be dealt with via an upgrade sewage plant on another site with a Package Treatment Plant (PTP).

Subject to compliance with the submitted drainage strategy, 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. Reason 3 falls away.

Refuse Collection:

The site is considered capable of providing adequate storage space for refuse and recycling. However, Somerset Waste has commented about the distance that the occupiers would have to take their bins to the public highway for collection which further highlights the remote location of the site.

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, the resulting harm of built development to the intrinsic character of the countryside 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 CP1, CP2, CP4, DP1, DP4, and DP9 and advice contained within the NPPF.

Recommendation

Refusal

1. The development does not accord with the objectives of policies CP1, CP2 and CP4 of the Mendip District Local Plan Part I with regards to strictly controlling development outside the Development Limits and the approach to the delivery of housing therefore as a matter of principle it is unjustified. The proposal for unjustified development in the open countryside would erode the rural character of the area and be harmful to its intrinsic character and beauty and would be located in an unsustainable location. The limited benefits of bringing forward housing supply and the limited economic benefits for the wider community do not in this case outweigh the harm and adverse impacts that have been identified. The development fails to accord with the objectives of Policies CP1, CP2, CP4, DP1, DP4, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014) and advice contained within the National Planning Policy Framework.

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 drawing numbers 2020069 004, 2020069 003 Rev A, 2020069 003, 2020069 001 and drawing number 01 received 19.09.23.