

Application Number	2024/1164/FUL
Case Officer	Jennifer Alvis
Site	Land At 347729 151281 Vicarage Lane Draycott Cheddar Somerset
Date Validated	3 July 2024
Applicant/	A Fisher
Organisation	
Application Type	Full Application
Proposal	Formation of an area of hard standing and consolidated track (retrospective)
Division	Mendip West Division
Parish	Rodney Stoke Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

3. Referral to Ward Member/Chair and Vice Chair/Planning Board

Referred to the Chair and Vice Chair of Planning Board due to the Parish Council recommending refusal, contrary to the officer recommendation for approval.

Description of Site, Proposal and Constraints:

This application relates to a small agricultural field off Vicarage Lane, Draycott. The site lies within the Mendip Hills National Landscape

This application seeks full planning permission for retrospective consent for an area of on-site hardstanding for the parking of agricultural machinery and other equipment in association with the existing agricultural use.

The field is accessed by an existing field gate from Vicarage Lane.

Relevant History:

No relevant planning history.

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

Ward Member: No response

Parish Council: Recommend refusal for the following reasons:

- Full ecological survey and a bat survey are required in this location, as adjacent land includes trees with tree protection orders and also includes a bat flight path.
- Further detail on the scale of the development is required both in terms of need and appropriateness in the setting and for the size of the small holding; as set out in items 9 and 10 of the conclusion of CPREs response to this application, dated 19th July 2024.

Highways Development Officer: Standing advice applies

Mendip Hills AONB Officer: Raised the following points:

- The site is visible from the Public Right of Way WS9/35
- Unclear on the requirements to operate the site and necessity of vehicles/machinery to be stored here
- Represents more of an urban sprawl into the landscape
- The hardstanding seems excessive for site, and therefore more prominent than necessary
- The Preliminary Ecological Appraisal is also retrospective, and so cannot give accurate factual evidence of what was on site before the development.
- Suggested mitigations are insufficient to mitigate the visual impact. Not compliant with DP4
- Should the application be approved, we request that substantial native hedge is planted on the northern boundary of the site

CPRE Somerset:

- Insufficient information provided regarding the existing/proposed use
- Existing parking is available in the vicinity
- The need for a second track has not been justified
- No explanation provided as to why services were laid in a trench across the site
- No explanation as to why trees were felled on site
- Extent of the track is larger than purported in the photo in the Planning Statement
- Does not accord with the National Landscape Management Plan (Section 1.3.1)
- Development is highly visible from the footpath on higher ground
- Does not contribute to the conservation and enhancement of the National Landscape
- Size of the development is not justified for a modest smallholding therefore additional information is required

Local Representations: 8 letters of objection have been received raising the following points:

- Negative impact on the character of the surrounding landscape
- Does not "*conserve and enhance*" the National Landscape area
- Loss of trees and hedgerows
- Impact on bats, slow worms and other wildlife
- Development is not justified
- Out of scale
- Extensive engineering works to lower ground levels
- No justification for laying of service pipes
- Visual harm to the local area through loss of trees
- Application form incorrectly filled in
- Tree survey should have provided
- Ecology surveys are insufficient
- Field access has not been used for years and as such no evidence of 'rutting'

- Felled trees and hedgerow was burned on site creating health issues
- Tress and hedges were felled during bird nesting season
- Impact on Mendip dark skies from vehicle lights
- Precursor for future development
- Hardstanding was created to site a residential cabin on the land

One letter received neither objecting nor supporting the application but raising the following points:

- Site lies in a sensitive area in planning terms
- Impact through loss of trees on ecology and landscape
- Due process should be followed

Full details of all consultation responses can be found on the Council's website www.somerset.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) Post JR Version
- 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 – Mendip Spatial Strategy
- DP1 - Local Identity and Distinctiveness
- DP4 – Mendip's Landscapes
- DP5 - Biodiversity
- DP6 - Bats
- DP7 – Design and Appearance
- DP9 – Transport
- DP10 – Parking

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:

While concerns have been raised regarding the lack of justification for the hardstanding, no change of use is being applied for and it's stated within the Planning Statement that the hardstanding will be used to create a betterment in terms of the access to the field and wider agricultural unit while also allowing for the parking of farm machinery. As such, the development would be considered acceptable in principle as necessary for access and machinery storage in relation to the ongoing maintenance of the land and any ongoing agricultural uses on the land.

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

The retrospective consent is for hardstanding which runs from an existing access onto Vicarage Lane. The site lies within the Mendip Hills National Landscape (designated Area of Outstanding Natural Beauty).

Given that the access is existing, no additional breaks within the hedgerow along Vicarage Lane are proposed. The area covered with hardstanding is largely screened by the high established hedges when viewed from the nearest public vantage point, Vicarage Lane.

Concerns have been raised by local residents, parish council and the Mendip Hills AONB Officer about the visual impact of the development from public rights of way on the hill side to the east of the site (namely PRow WS9/35 on Draycott Sleights), which lies at a higher elevation. Where the development may be visible from these vantage points, it's considered that users of the footpath would be looking over and above the development to the views beyond rather than down towards the development site. In addition, the site is on the outskirts of Draycott, a built up area, and is bordered to the immediate south and west by residential properties. As such, it's not located in a isolated rural location but on the edge of the existing built form of the village and will be viewed as such.

Image 1 below clearly shows the extent of the hardstanding as of 30th March 2024, shortly after construction. Image 2 is a recent picture of the hardstanding as viewed from the access on Vicarage Lane taken 20th August 2024. Since the hardstanding has been created in March 2024, grass has started to grow within the permeable surface and the area of disturbed ground has been laid back to grass, therefore further reducing the visual impact of the development on the wider landscape.

Image 1 (See Officer Presentation or Additional Document: MAP 2024_1164_FUL & IMAGES)

Image 2 (See Officer Presentation or Additional Document: MAP 2024_1164_FUL & IMAGES)

Given the above, it's not considered that the hardstanding would constitute a significant enough of a development to be impactful on the wider character of the area or the designated protected landscape.

The AONB officer requested that additional native planting be conditioned on the northern boundary should the application be approved. A landscaping condition can be applied to

any permission which requires details of such planting within 3 months of the decision, and implementation during the next planting season.

The proposal accords with Policies DP4 and DP7 of the Mendip Local Plan Part 1.

Impact on Residential Amenity:

The agricultural use is already present on the site and as such the hardstanding won't increase any adverse impact through noise, odour or other disturbance. Given that hardstanding is largely constructed at existing ground levels, there would be no adverse impact through overbearing, overlooking or loss of light to neighbouring occupiers.

The proposal accords with the provisions of policy DP7 of the Mendip Local Plan Part 1.

Assessment of Highway Issues:

Highways referred the application to Standing Advice and as such raised no specific objections to the proposal.

The access to the field, and the area of hardstanding, is existing from an unclassified highway, Vicarage Lane. The highway is a single lane carriageway and no through road which only serves a few properties and agricultural land. As such, it supports a low number of vehicle movements. The gates are set back from the lane allowing vehicles to pull of the carriageway before entering the site. No alterations to the access are proposed and as such highway safety would be maintained.

There is ample space within the site for the parking and turning of vehicles allowing vehicles to access the highway in forward gear.

The proposal is acceptable in terms of highway safety in accordance with Policies DP9 and DP10 of the Mendip Local Plan Part 1.

Ecology

A number of concerns have been raised by local residents and the Parish Council regarding the impact on wildlife and protected species. A number of these concerns relate to the felling of trees within an area identified as 'woodland' in consultation responses which lies to the south of the site. Given that the woodland is outside the red line of the site, this does not form part of the current application and there are no protection on these trees which would prevent the owner from felling them in planning terms. Other legislation may apply (such as the Wildlife Act) but this would fall outside the remit of the current application.

A Preliminary Ecological Assessment (PEA) prepared by Nash Ecology has been submitted with the application. The PEA states that "Impacts arising from the construction of the new access track were highly localised and did not extend beyond the boundaries of the Site." It was found that the nearby Draycot Sleights and Rodney Stoke SSSI's, and the Mendip Woodlands SAC would not be "within the zone of influence" of the development and as such are not impacted.

The site lies within Band B of the North Somerset and Mendip Bats Bat Consultation Zone however as no hedgerows or linear foraging features were removed (an existing access is utilised), there is no risk of habitat fragmentation or population isolation. The barns on site were found to have negligible roost potential. As such no further bat surveys were recommended.

No lighting is proposed however a condition would be imposed on any approval to ensure that any potential future lighting be designed in line with a lighting design for bats scheme which is to be submitted to the LPA prior to installation.

The PEA found that the grassland was unlikely to support reptiles and it was not suitable for nesting birds. No evidence of nesting birds was discovered within the barns on site. No evidence of badgers were discovered on site and although there is suitable habitat for hedgehogs, this remains unaffected by the works. While the lost scrub could have supported hedgehogs, the works have been completed and as such no further surveys were recommended. Despite no further surveys being recommended within the PEA due to the works having already been completed, the results of the ecology survey do not suggest that the area of land laid to hardstanding was of any high ecological potential whose loss would severely impact on local ecology. Any loss of habitat, such as the potential hedgehog habitat, can be mitigated for via conditions and additional enhancements created on through a Biodiversity Net Gain condition, as per the BNG metric provided with the application.

To provide the 10% required BNG on the site, it's proposed to create 0.019hec of planted areas of mixed scrub planting of two large native trees and creation of 0.012 of species rich hedgerow. This proposed planting will result in gains of area habitat (+0.17 BU or 26.2%) and linear habitat (0.09 BU or 16.17%), as calculated within the BNG metric. These values exceed the statutory requirement of 10% BNG.

Subject to conditions to secure mitigation and enhancements, as outlined above, the retrospective consent will accord with DP5 and DP6 of the Local Plan Part 1.

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.

Recommendation

Approval

Conditions

1. Retrospective Permission (Compliance)

Notwithstanding the time limit given to implement planning permissions prescribed by Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), this permission, being a part retrospective permission as prescribed by Section 63 of the 1990 Act, shall have been deemed to have been commenced on 03 July 2024.

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: PL5170/1, PL5170/2 and PL5170/3

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

3. **Biodiversity Net Gain (Compliance)**

The development hereby approved shall be implemented in full accordance with the Preliminary Ecological Appraisal undertaken by Nash Ecology, dated June 2024, and drawing ref PL5170/3 . The works shall be carried out within 6 months of the date of approval and/or within the next suitable planting season. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All landscaping shall be permanently retained in accordance with the approved details.

Reason: To prevent ecological harm, to provide biodiversity gain and to ensure the provision of an appropriate landscape setting to the development in accordance with Development Policies 4 and 5 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 paragraph 186(d) of the National Planning Policy Framework.

4. **Soft Landscaping (Pre-occupation)**

Within 3 months of the date of the approval decision, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority showing details of tree planting on the northern boundary to further screen the development; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. External Lighting (Bespoke Trigger)

No new external lighting 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. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated and maintained in accordance with the approved details.

Reason: To avoid harm to bats and wildlife and to retain the visual amenity of the Mendip National Landscape in accordance with DP4, DP5 and DP6 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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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/>