

Case Officer	Jane_Thomas
Site	Westhayes Springers Hill Coleford Frome Somerset
Application Number	2023/0431/FUL
Date Validated	10 March 2023
Applicant/ Organisation	P Taylor
Application Type	Full Application
Proposal	Change of use from land in the open countryside to residential garden.
Division	Mendip Central And East Division
Parish	Coleford Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

5. What 3 words

Reporters.enjoyable.sound

#### **Scheme of Delegation:**

Referred to the Planning Committee (East) due to the application being a departure from the Local Plan, and the officer recommending approval.

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

Westhayes is a detached dwelling located in an elevated position on Springers Hill, Coleford, to the south of the village. The curtilage of the property runs west to east adjacent to the road with the main garden area lying to the east of the house. The Development Limit of Coleford lies along the existing southern boundary of the curtilage of Westhayes, and therefore the application site lies outside of the development limits of Coleford.

This proposal seeks a change of use to incorporate an area of the unallocated land into the garden of Westhayes.

The proposal site lies within the Mells Valley Bat Consultation Zone C and within the Impact Zone for the Edford Woods and Meadows SSSI. There are no other special land designations at this location relevant to this application.

Westhayes is not listed and there are no listed buildings in the vicinity. It lies outside a local area of High Archaeological Potential. Coleford does not have a designated Conservation Area.

No footpaths or other Public Rights of Way cross or run adjacent to the proposal site.

### **Summary of representations/consultations**

Coleford Parish Council: Object – ‘Coleford Parish Council has considered the abovementioned and recommends that the application should be refused on the basis that the bio-diversity checklist does not appear to have been completed correctly and is lacking information’. Please see consideration of this comment below.

Neighbours: No comments received

Public consultations (Site Notice and Local Press): No comments received

### **Relevant Planning Policy**

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)

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

- DP1 Local Identity and Distinctiveness
- DP4 Mendip’s Landscapes
- DP5 Biodiversity and Ecological Networks
- DP6 Bat Protection
- DP7 Design and Amenity of New Development

Other possible Relevant Considerations (without limitation)

National Planning Policy Framework (NPPF)

North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (January 2018)

## **Relevant Planning History:**

2013/0764 Change of use/conversion from garage/store to a two-bedroom dwelling with associated alterations and parking. Application withdrawn.

## **Principle of the Use:**

Springers Hill is a residential area within the Development Limits of Coleford, the southern edge of which runs along the southern boundary of the existing curtilage of Westhayes.

Whilst the change of use of land proposed by this application will extend the garden area of Westhayes beyond the boundary of the Development Limits, the garden areas of neighbouring dwellings Spring Hill Cottage and Noone Cottage already extend beyond this line. The proposed change of use will bring the southern boundary of the garden of Westhayes into line with those of its neighbours.

The addition of this land into the garden at Westhayes will not result in an excessive area of garden for the size of the property.

Conditions are proposed that will restrict Permitted Development Rights on the area of garden gained under this change of use application.

Therefore, although the proposal for the change of use would not have policy support and therefore be considered a departure from the Local Plan, the overall scheme is considered acceptable in terms of potential harm and the manner in which the new use will function associated with the existing on plot dwelling, and the surrounding area (please refer to further assessment sections below).

## **Impact on the Street Scene and Surrounding Area:**

The garden at Westhayes is not visible from the street, nor from the nearest footpath FR4/17. However, Part II of the Mendip Local Plan recognises that the landscape setting is particularly important to the character of this lower part of Coleford village.

Following a site visit the applicant indicated that they intend to maintain the newly adopted area of garden as an area of semi-natural habitat with a number of biodiversity enhancement features including a pond and native species wildflower and other planting.

To ensure that the proposed change of use of land does not impact adversely upon the landscape setting conditions are proposed to control the landscaping of the site and to

restrict Permitted Development Rights on the area of garden gained through this change of use.

The proposal by reason of the above is acceptable, contributes and responds to the local context, and maintains the character and appearance of the surrounding area. The proposal is therefore considered to be in accordance with Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part I (2014).

**Impact on Residential Amenity:**

The garden at Westhayes is visible in only glimpsed views from the gardens and upper floor windows of neighbouring properties. The change of use of the piece of land will not cause any additional issues of overlooking either from or into the site.

The change of use of land proposed will enhance the garden facilities at Westhayes which will be of amenity benefit to current and future occupants.

The proposal respects the amenity and privacy of occupants of both the dwelling and neighbouring dwellings and is therefore considered to be in accordance with Policy DP7 of the adopted Mendip District Local Plan Part I (2014).

**Impact on Ecology:**

The Objection to this proposal from Coleford Parish Council relates to the bio-diversity checklist submitted with the application which they considered 'does not appear to have been completed correctly and is lacking information'.

The Mendip Bio-diversity checklist is only a validation requirement for Change of Use applications that include physical works. These do not form a part of this proposal and the submission of the Biodiversity Checklist was therefore additional information voluntarily provided by the applicant.

This is therefore not a material planning condition that justifies refusal of this application.

However, given the location of the proposal site consideration of the ecological impact of any change of use is important.

The area of land that is the subject of this proposal has at various points in the past been cleared by the previous landowner but is currently covered with bramble growth. There is a mature hedgerow to the western side which will be unaffected by this proposal to change the use of the land. There is no mature tree growth (trunk diameter greater than 20cm at a height of 1.5m) on the proposal site.

The proposal site does lie within Mells Valley Bat Consultation Zone C. The North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (SPD) (January 2018) includes guidance of a 'Test of Significance' for any proposed development within a Bat Consultation Zone. This specifies that:

Development within Consultation Zone C that does not have the potential to affect a feature of value to bats reduces the impact on the SAC. However, local plan policies on biodiversity would still be likely to apply.

Development that would be deemed to have a minor impact likely to be acceptable subject to mitigation as appropriate.

This proposal will not affect any linear features and will have no impact on any hunting habitat used by bat species. It is therefore appropriate to consider this application against the policies within the Local Plan.

The SPD seek to maintain the quality of all semi-natural habitats. This is an opportunity to secure improvement to the quality of this habitat through the application of appropriate planning conditions relating to soft landscaping and biodiversity.

It is considered that the proposed change of use of the land at Westhayes will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5 and DP6 of the adopted Local Plan Part I (2014).

## **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.

## **Planning Balance & Conclusion:**

In terms of the proposed extension to the existing garden at Westhayes whilst it is acknowledged that the development will be outside development limits, it will abut the

existing residential property and be representative in terms of garden extent to that of the neighbouring properties.

From an assessment point of view given the scope of the proposals, the proposed use is not considered to have a detrimental impact on the adjoining land uses and or any ecological habitat. On this basis the application scheme is considered on balance to represent a sustainable form of development, and it is therefore recommended that planning permission be granted as a departure from the development plan subject to various conditions as recommended.  
Approve with conditions

## **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: Block Plan, Location Plan and Site Plan validated 09.03.2023

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

3. Hard and Soft Landscaping (Pre-occupation)

No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting and
- (e) a detailed programme of implementation.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or

diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Development Policies 1, 4, 5 and 7 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014).

4. 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 free standing buildings shall be erected within the area of permitted change of use of land hereby approved, 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 site, the landscape setting, and the amenities of the surrounding area and residents, in accordance with Development Policies 1, 4, 5 and 7 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 [www.mendip.gov.uk](http://www.mendip.gov.uk) ). 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. Any vegetation in the proposal area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10½C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land.
5. **Legal Protection Afforded to Nesting Birds**  
The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young



have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

6. **Legal Protection Afforded to Badgers**

The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity.