

Case Officer	Lorna Elstob
Site	Blostins Restaurant 29 - 33 Waterloo Road Shepton Mallet Somerset BA4 5HH
Application Number	2022/0285/FUL
Date Validated	28 February 2022
Applicant/ Organisation	N & L Reed
Application Type	Full Application
Proposal	Part Change of use from restaurant Class E(b) to residential Class C3
Division	Shepton Mallet Division
Parish	Shepton Mallet Town Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Bente Height Cllr Garfield Kennedy

14. What3words: tresspass.tragedy.hotel

Chair comments (D Hooton): I disagree with Officer Recommendation of Refusal. Surely a change from Restaurant to residential will reduce the amount of waste water being produced therefore a comparable reduction in potential phosphates.

I therefore to overturn Officer recommendation and Approve this application as, notwithstanding the loss of a business it will compensate by providing much needed housing that the District is desperately short of. If this means the application must be referred to Planning Board then so be it.

Vice Chair comments (N. Hewitt-Cooper): I agree with your recommendation. If refused for this reason alone the principle for the proposed development would stand for a re-application.

The application was referred to the Chair and Vice Chair following the referral to the Ward Members and the receipt of their comments:

Cllr Kennedy: I have no objection to this application being considered under delegated powers. Of course I regret that this important restaurant is to close but we have to accept in the current economic climate there are many challenges to running a public facing business. The restaurant sits in a residential street, not in the town centre, so there really can be no strong reason to prevent the property reverting to its original purpose as a dwelling.

Cllr Height: I do not agree to use delegated powers with regards to this application. The application is not doing any harm to road safety, conservation protection, nor other impacts in Waterloo Road. The application will transfer a part of the restaurant back to what it original was a house. I disagree that there will be an adverse impact on the plains. This application protects a couple of vital issues in Shepton Mallet.

1. It maintains a very important restaurant (we have lost the Italian restaurant and The Shrubbery Hotel)
2. It creates a dwelling and since no building has been started at the prison and the old Midsomerset Showground, Shepton Mallet has fallen dramatically behind regarding housing buildings target.

Description of Site, Proposal and Constraints:

Blostins Restaurant occupies the ground floor of 29-33 Waterloo Road, the rest of the building is a single residential unit. The proposal is for the change of use of the restaurant to residential with the overall result being two dwellings. The site is located within a conservation area and is within the development limits of Shepton Mallet. The site is also located within the Somerset Levels and Moors Ramsar catchment.

Relevant History:

2022/0286/DUB – Demolition of rear extension as part of change of use. Approved 12.09.22

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

Ward Member: No comments received.

Shepton Mallet Town Council: Support application.

Planning Policy: Lack of information with regards to phosphates.

Highways Development Officer: Standing Advice.

Local Representations: No comments have been received as a result of public consultation.

Full details of all consultation responses can be found on the Council’s website www.mendip.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 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 2 - 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
- CP2 – Supporting the Provision of New Housing
- DP1 – Local Identity and Distinctiveness
- DP3 – Heritage Conservation
- DP7 – Design and Amenity of New Development
- DP10 – Parking Standards

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The application site is located within the Development Limits of Shepton Mallet, where Policy CP1 of the Mendip District Local Plan supports the general principle of housing development. The applicant has demonstrated, via suitable marketing, that there is no demand for the re-use of the building for commercial purposes. As such the loss of employment floor-space is considered to be acceptable and in accordance with Policy DP17 of the Mendip District Local Plan and the supplementary planning document (SPD) on marketing.

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

There are no external changes to the front of the building (other than the removal of the signage relating to the public house). At the rear of the building a small extension is proposed to be removed (approved 2022/0286/DUB) therefore there will be no adverse impact on the street scene or the surrounding area.

Impact on Residential Amenity:

There are no proposed changes to the exterior of the building and no change to the impact on neighbouring properties. The closure of the restaurant will result in less traffic and visitors to the site which will, overall, improve the amenity of the adjacent dwellings.

Conservation:

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area. In this case it is considered that no harm to the significance of the heritage asset or its setting would occur and that the proposed development would at least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with Policy DP3 of the adopted Local Plan Part 1 (2014) and Part 16 of the National Planning Policy Framework.

Assessment of Highway Issues:

The existing restaurant does not provide any on site parking. Somerset County Council have responded to the consultation with a reference to Standing Advice. Usually this would determine the number of parking spaces required to be provided. In this case it is felt that the decrease in number of visitors to the site will decrease the volume of traffic, and parking associated with the building and therefore there will be no adverse impact on highway network or highway safety as a result of the change of use.

Refuse Collection:

There is sufficient space on site for the storage of both refuse and recycling. As the property is within a residential area there is an existing domestic waste collection which will be available for the proposed dwelling.

Phosphates:

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. 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 foul water discharge. As the designated site is in 'unfavorable'

condition any increase, including from single dwellings, is seen as significant, either alone or in combination with other developments.

No Nutrient Neutrality Assessment and Mitigation Statement (NNAMS) has been provided. Based on the information currently available, it is not possible for the Council to determine whether the proposal would have an acceptable effect in relation to the Somerset Levels and Moors Ramsar site, and as such it fails Regulation 63 of the Habitat Regulations 2017. Nor is it currently possible to confirm that the proposal would have an acceptable effect in relation to protected species in accordance with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and Part 15, including paragraph 182 of the National Planning Policy Framework 2021.

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

Refusal

1. In the absence of an appropriate phosphate mitigation scheme, it is not possible to demonstrate that the proposal would not result in an unacceptable increase in phosphate levels within the drainage discharged from the development affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site and, as such, the proposal 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 Development Policies 5 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and paragraph 182 and Part 15 of 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 drawings A221/10/01, A221/10/02, A221/10/03, A221/10/04, A221/10/12, A221/10/13 and A221/10/14.