

Application Number	2023/0959/FUL
Case Officer	Carlton Langford
Site	Tadhill Farm Cottage Old Wells Road Leigh On Mendip Shepton Mallet Somerset
Application Number	2023/0959/FUL
Date Validated	29 May 2023
Applicant/ Organisation	Mr & Mrs Davis
Application Type	Full Application
Proposal	Alteration to an existing access and installation of a new access track (extension to residential curtilage).
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

#### 6. **What3words:**

The application site can be found by entering the following into [www.what3words.com](http://www.what3words.com):

tile.prowling.gems

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

In accordance with the Scheme of Delegation, this application is automatically referred to the Planning Committee. This is because the proposal to extend the residential curtilage represents a change of use of land within the open countryside which cannot be supported in policy terms and therefore represents a departure from the development plan.

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

This application relates to scrub land and agricultural land adjacent to Tadhill Farm Cottage situated within the open countryside. The site is within a Bat Consultation Zone,

a Minerals Consultation Zone, a Ground Water Protection Zone and adjacent to a Grade II Listed Building (Tadhill Farm Cottages).

This application seeks full planning permission for alterations to an existing access and installation of a new access track (extension to residential curtilage) to serve as a separate domestic access separate from the main farm access.

**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 approval.

Highways Development Officer: Standing advice

Ecologist: No objections subject to the imposition of conditions to ensure the protection of wildlife throughout the construction stage and to ensure the implementation of the proposed new hedgrows.

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

**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)

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
- DP3 – Heritage conservation
- DP4 – Mendip Landscapes
- DP5 – Biodiversity
- DP6 – Bats
- DP7 – Design and amenity
- DP9 – Transport
- DP10 – Parking

**Other possible Relevant Considerations (without limitation):**

- National Planning Policy Framework
- National Planning Practice Guidance
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)

**Assessment of relevant issues:**

**Principle of the Use:**

Development within the open countryside is strictly controlled. Whilst this proposal will result in an increase in domestic curtilage which will result in the loss of countryside which should be protected for its own sake, the extension relates purely to the proposed route of the track and off-street parking which, subject to the usual planning controls of design, amenity, highway safety, ecology and impact on the setting of a nearby Listed Buildings, would in this case, seem acceptable in principle in that it will allow safer

traffic and pedestrian management on site and therefore enhancing the overall developments at Tadhill Farm.

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

The site forms a small part of a wider section of scrubland to the west of Tadhill Cottages which has previously been used in association with the farm and a small part of a larger agricultural field. The proposal will allow the creation of a short section of track to the side of the cottages and allow a parking area to the rear of the cottage off an existing access which currently served one of the 2 cottages and which has its own off-street parking. The cottage to the east, has its parking to the rear and uses the separate busy farm access. The proposal will allow this cottage to have its own parking area (not shared with the farm) but use the same domestic access as the other cottage.

The nature of the works will be minimal having little visual impact on the character of the street scene or wider landscape. It is proposed to create a new hedgerow along the west boundary of the track which will not only provide a natural and typically distinctive boundary with the countryside beyond but also provide improved biodiversity.

The proposal is considered to be of a scale, form and layout appropriate to the local context in accordance with policy DP7 of the LP.

### **Impact on the Listed Building:**

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194-204 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

The land is adjacent to the two Grade II Listed Cottages but has never formed a formal part of their historic curtilages.

As already described, the proposed works will be minimal and have very little impact on the wider landscape nor street scene. No listed boundary treatments will be lost to the development and whilst the domestic area surrounding the cottages will increase in area, this will have no significant impact on the setting of the cottages or the wider farm complex.

Having regard to the above, no material harm to the designated heritage asset has been identified and therefore, having due regard to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) consent should be approved.

#### **Impact on Residential Amenity:**

Both cottages are in the same ownership and there are no other immediate neighbours which would be impacted by the proposal.

The proposal accords with Policy DP7 of the LP.

#### **Assessment of Highway Issues:**

The existing access from which the track will extend has sufficient visibility in both directions to ensure continued highway safety from its proposed increased in use and together with a reduction in use of the existing farm access to the east, highway safety is likely to improve overall.

The proposed parking area to the rear will again have sufficient space for vehicles to turn in order to leave the site safely in forward gear and the number of off-street parking spaces proposed accords with the Countywide Parking Strategy.

The proposal accords with Policies DP9 and DP10 of the LP.

### **Ecology:**

Having regard for the limited impact of the works proposed together with the creation of the new stock boundary hedge, the development will not adversely impact on existing wildlife or wildlife habitats and will provide commensurate ecological enhancements.

Subject to a suitable qualified ecologist overseeing site clearance and the implantation of the proposed hedgerow, which can be achieved through condition, the proposal accords with policies DP5 and DP6 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:**

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

Whilst the development is contrary to Policies C1 and CP4, which seek to restrict development in the open countryside, there are material considerations which justify a departure from these policies constraints where, in this case, the benefits of the development outweigh the harm.

The development is therefore recommended for approval.

## **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:  
LOCATION PLAN  
SITE PLAN EXISTING DRAINAGE FIELD  
SITE PLAN WITH PROPOSED TRACK AND PARKING  
PLANTING SPECIFICATION  
Reason: To define the terms and extent of the permission.
  
3. **Hard and Soft Landscaping (Compliance)**  
All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the access and access track hereby approved or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. 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 hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting and ecological enhancements for the development in accordance with Policies DP4 and DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Nesting Bird Protection (Bespoke Trigger)**

No vegetation removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

Reason: To protect nesting birds and prevent ecological harm in accordance with DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Site clearance (Compliance)**

Any vegetation in the construction 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. This work may only be undertaken during the period between March and October under the supervision of competent ecologist. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with policy DP5 of the Mendip Local Plan



## Informatives

1. 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.

2. **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). 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.

3. The applicant is advised of the need to consult the Highways Department, Somerset Council (Tel:- 0300 123 2224) prior to commencing works adjacent to the public highway.
4. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
5. 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.