

Application Number	2023/0693/FUL
Case Officer	Jennifer Alvis
Site	Ivy Cottage Quarry Lane Leigh On Mendip Shepton Mallet Somerset
Date Validated	14 April 2023
Applicant/	J Hudson
Organisation	
Application Type	Full Application
Proposal	Creation of new access and driveway.
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

4. **Referral to Ward Member/Chair and Vice Chair/Planning Board**

Referred to Planning Board as the application is a departure from the Local Plan and the officer recommendation is for approval and the parish council have raised objections.

Description of Site, Proposal and Constraints:

The application relates to land north of Ivy Cottage, Leigh on Mendip. The application site is currently a section of an agricultural field with an existing field access on an unclassified road.

The application site falls outside of designated development limits as defined by Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP). The application site also falls within Band C of the Mells Valley Special Area of Conservation (SAC), a Bat Consultation Zone, a SSSI Impact Risk Zone and a Coal Development Low Risk Area. Additionally, the site is close to Halecombe Quarry and Barn Close Quarry and hence is within the mineral safeguarding area in the Somerset Minerals Plan (2015).

The application seeks planning consent for the change of use of this section of field to residential to create a new access for a proposed development of 3no. terraced dwellings (ref: 2023/1084/FUL) which is still pending consideration. The existing field access is proposed to be blocked up and the new access created approx 10m to the north.

A revised Location Plan was submitted during the life of the application which adds clarification to the extent of the agricultural field that would be effected by the application in order to provide the new access.

Relevant History:

2023/1084/FUL - Demolition of existing barn to form terrace of 3no. single storey dwellings. - Pending Consideration

2020/1877/OTS - Application for Outline Planning Permission with some matters reserved (access considered) for the erection of up to 40 dwellings and provision of school playing field and car park - Refusal - April 2021 - Appeal Dismissed

The following application which relates to an adjoining site is relevant to this application

2022/0053/OTS - Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access. - Approved - May 2023

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

Ward Member: No response

Town/Parish Council: Objects to the application on the following grounds:

- Proposed materials and street lighting results in an suburbanising impact on the character of the area
- Impact on the landscape character given excessive excavation works required
- Loss of historic wall
- The fields proposed for the access were highlighted as making a positive contribution to the setting of the Grade I listed church in the appeal for 2020/1877/OTS
- The existing access was previously found acceptable under 2017/3266/PAA
- Highways safety concerns
- The barn conversion can be accommodated without this harm using the existing access

The parish council also commented that a site notice hadn't been erected. A general site notice was not required for this type of application given that neighbours were directly consulted. A site notice advertising the development as a departure from the Local Plan has been erected since these comments were received.

Highways Development Officer: Raise no objections to the proposal. The location of the proposed access was previously found acceptable at appeal under ref: 2020/1877/OTS and given the reduction in intensity of the use, the access would still be considered acceptable subject to conditions.

Local Representations: Four letters of objection have been received on the following grounds:

- Impact on landscape - urbanisation
- A formal roadway would include lighting which is not acceptable in this rural area
- No evidence provided as to why the existing access is inadequate
- Loss of hedge, trees and wall
- Impact on the setting of the listed building
- Exceeds the requirements for 3no. dwellings
- Inspector highlighted the importance of the rural nature of this field on the setting of the church in their determination of 2020/1877/OTS
- Wall is historic and should be a heritage asset

Five letters of support have also been received

- Will take pressure of the existing access
- Relocation of the 30mph limit is welcome
- Existing access gets obstructed during school drop off and pick up times
- Safer for school children
- Increased visibility
- Existing field access was blocked for security reasons only
- Farming of this land stopped in approx 2017
- Wall was rebuilt approx 10yrs ago so not historic

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 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
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- 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 - Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Mineral Products Association/Planning Officer Society (POS) practice guidance for mineral safeguarding

Assessment of relevant issues:

Principle of the Use:

The application site is situated within the open countryside where under core policies CP1 and CP2 of the Local Plan, development is strictly controlled however this application relates to a change of use of a small section of agricultural land to create a new access to a proposed residential development (ref: 2023/1084/FUL). The parcel of land is directly adjacent to the proposed residential curtilage of the dwellings and runs to the north east where it will join Quarry Lane at the proposed access.

Para 11 of the NPPF states that there should be an assumption in favour of development where a sustainable pattern of development can be established. While the site is outside developments, the proposal is for a access which would be ancillary to 3no. dwellings and not for an independent use. As such the proposed access and change of use would not be considered to result in an increase in vehicle movements or other impact that would make this an unsustainable development.

Given the siting and size of the plot it is not considered that the change of use to residential for the proposed access, will affect the agricultural use of the remaining field area.

The usual planning controls of design, amenity, highway safety and other relevant considerations are addressed in more detail below.

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

While the proposal will result in a change to the appearance of the area, a development for 3no. dwellings was recently granted (ref: 2022/0053/OTS) on the land to the south and the associated proposal for 3no. terraced dwellings is pending consideration to the south west. Therefore the change of use to a residential access would not look out of character in this area given it is not in an isolated location.

The access from the public highway would require the formation of a new opening in the roadside boundary wall however the existing field access will be blocked up and therefore the overall character of the street scene would, on balance, be retained.

From within the site the proposed route will utilise an existing field gate in order to break through to the site area where the residential dwellings are proposed.

Given the above, it's not considered that the proposal would have a significant impact on the appearance of the wider area or on the scene street, and is therefore considered acceptable in regard to policies DP1 and DP7 of the MDLP

Setting of Heritage Asset:

In respect of the setting of the Grade I Listed Church site to the west of the application site the case officer has concluded that there are existing developments between the application site and Church and therefore it is not considered that the setting will be adversely harmed by the proposal.

To expand on this conclusion and having regard for the Good Practice Advice provided by Historic England (2017), setting is the surroundings in which an asset is experienced and may therefore be more extensive than its curtilage.

In assessing the wider setting surrounding the Grade I Listed Church and other nearby listed buildings, it is concluded that the development as proposed is for a new access as such would not be highly visible within the landscape. A lighting condition to control external lighting can be applied to further mitigate against the harm to the setting. The access is located close to existing development and any loss of historic wall will be re-sited through the infill of the existing field gate.

Impact on Residential Amenity:

The proposal would not require the creation of any structures above ground works or boundary treatments and as such would not impact on residential amenity.

The proposal is considered acceptable in regard to policies DP7 and DP8 of the MDLP.

Assessment of Highway Issues:

Policy DP9 and DP10 of the MDLP sets out a range of criteria to ensure that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; avoid direct access onto National Primary or County Routes; and, where appropriate, demonstrate how sustainable modes of transport would be promoted.

An important consideration is the effect on highway safety. The application proposes a new direct access off Quarry Lane, a classified un-numbered road within national speed limit. However, given the proximity of the proposed access to the 30mph village speed limit sign, and the curved nature of the road, it's unlikely that vehicles will be travelling at national speed limit.

A previous scheme for up to 40 houses (ref: 2020/1877/OTS) was refused and dismissed at appeal however, there were no highways issues raised. The current proposal seeks to form the access as proposed, from the same position in terms of the junction with the public highway, albeit serving a much lower level of movements on and off the highway than the appeal scheme.

The current proposal also includes visibility splays of 2.4m x 60m to the north and 2.4m x 55m to the south which reflects the visibility proposed and which is considered acceptable in this location. The visibility splays are within the ownership of the applicant and as such can be managed to ensure visibility is achieved and maintained as such. This can be secured through condition.

No objections have been raised by the Highway Authority subject to conditions regarding disposal of surface water run off, blocking up of the existing access, creation and maintenance of visibility splays and construction in compliance with details provided.

There is ample space within the site for the parking and turning of vehicles.

Whilst the Parish Council allude to concerns about the access and highway safety, no further details as to these concerns have been provided. The Parish Council also mention the fact that the existing access was previously considered capable of serving the proposed dwellings under the prior approval process, and whilst this is recognised it is considered that the proposed new access would result in a betterment in terms of highway safety.

Accordingly, against the test of the NPPF (para 109) and Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) Part 9 the proposal is considered acceptable in highway terms.

Ecology

The site is greenfield and lies with Band C of the Bat Consultation Zone for the Mells Valley SAC however the proposal seeks to utilise existing managed farm land for the access which would be of low ecological value. While the proposed access does require the removal of a section of field boundary, this is a stone wall and therefore not considered valuable foraging habitat. The gateway between the two fields is existing.

Pending the inclusion of conditions which restrict external lighting to protect foraging corridors, the proposal is considered to safeguard ecology in accordance with policies DP5 and DP6 of the Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

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, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion and Planning Balance:

Whilst it is acknowledged that the development will be beyond the edge of the village and therefore would represent a departure from local plan, it is only proposed in association with the proposal for 3no. terraced dwellings (ref: 2023/1084/FUL).

From an assessment point of view, given the scope of the proposals and the extent to which the proposed use of the land is to be controlled the proposed use is not

considered to have a detrimental impact on the adjoining land uses, landscape and visual impact, impact on heritage assets and/or highway safety.

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.

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: 2023010, 2023011A and 2023012
Reason: To define the terms and extent of the permission.
3. **Closure of Access (Bespoke Trigger)**
The new access hereby approved shall not be brought into use until the existing field access has been permanently closed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that the development is served by a safe access in the interests of highway safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
4. **Visibility Splay (Pre-occupation)**
The access hereby approved shall not be brought into use until the visibility splay shown on drawing number 2023011A has been provided. There shall be no on-site obstruction exceeding 300mm above ground level within the visibility splay.

The visibility splay shall be retained permanently thereafter.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Drainage (Bespoke Trigger)**

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to the access hereby approved first being brought into use.

Reason: To ensure that adequate and drainage is provided in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **External Lighting (Bespoke Trigger)**

No new external lighting, other than that shown on the approved plans, 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.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and to protect the visual amenity of the area in accordance with DP1, DP4, DP5, DP6 and DP7 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). 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/>

5. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.