

Application Number	2023/0574/FUL
Case Officer	Jennifer Alvis
Site	Land North Of 30 Wells Road Wookey Hole Wells Somerset
Date Validated	3 April 2023
Applicant/	Mr S Sage
Organisation	
Application Type	Full Application
Proposal	Erection of dwelling and attached car port and formation of vehicular car access
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

**What.Three.Words: lotteries.beaten.supporter**

**Scheme of Delegation:**

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

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

This application relates to a plot of land north of 30 Wells Road at the end of a row of properties in a semi-rural location. Wells Road is made up of a variety of housing styles which include detached, semi-detached, bungalows and two story properties. There is an existing vehicular access to the site situated at an angle adjoining the boundary of number 30. The site previously housed a mobile home but this has since been removed and an area of hardstanding has been created. From the edge of the hard standing the site slopes downward considerably in a westerly direction.

The site is located outside of the development limits, as defined by the Mendip District Local Plan Part 1 (December 2014), and is within a Bat Consultation Zone and the Somerset Levels and Moors Ramsar Risk Area.

The application seeks permission for the erection of a two storey dwelling and attached car port. The dwelling is proposed to be faced in of a mix of render and vertical timber cladding with a standing seam zinc coated steel roof.

**Relevant History:**

112683/000 - Demolition of single storey side extension and erection of two storey side extension - Approval - May 1997

110516/000 - Outline application for four detached dwellings - Refusal - Oct 1998

2011/2491 - Erection of extension on west elevation with decked area, alterations to roof of house to provide a new higher eaves level with windows at first floor level - Approval - Nov 2011

2018/0198/CLE - Application for an existing lawful development certificate for the permanent siting of a mobile home - Development is not lawful - July 2018 (Enforcement case - mobile home removed from the site)

2020/0775/FUL - Erection of single storey dwelling with wheelchair access - Refused - March 2021

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

Ward Member: No comments received

Parish Council: Recommend approval

Highways Development Officer: Standing advice applies

Ecology: No objection subject to conditions controlling the purchase of Phosphates Credits and occupation date of the dwelling.

Natural England:

- Phosphates - The information provided is sufficient to demonstrate that the proposed development can achieve nutrient neutrality. We therefore have no objection to the proposed development in relation to potential impacts on the Somerset Levels and Moors Ramsar Site, subject to the mitigation identified being secured through appropriate planning controls.

- North Somerset and Mendip Bats SAC - The application site is in close proximity to a lesser horseshoe bat maternity roost, one of the species which the North Somerset and Mendip Bats SAC is designated for. Due to the sensitive location of the site, your authority may wish to control the installation of external lighting on site to avoid light spill onto surrounding habitats suitable for lesser horseshoe bats.

Environmental Protection: No objection subject to a condition restricting construction hours.

Contaminated Land Officer: No comments

Land Drainage: Objection. Additional information regarding surface water run off is required

Local Representations: One letter of objection has been received raising the following summarised issues:

- Highway safety issues - Increase in traffic. Traffic survey doesn't reflect peak periods which fall within holidays due to the tourist attraction
- Outside of development limits with no adequate justification given for why it should be allowed
- Ribbon Development - The site is not flanked by existing residential development but is at the end of a row of houses
- Does not satisfy the requirement of the self build policy
- Design not in keeping and does not reflect previous applications on the site
- Encroaches into the 'green gap'
- The proposed phosphate mitigation site is miles away. How can this mitigate against phosphates on this site?

One letter of support has also been received.

Full details of all consultation responses can be found on the Council's website [www.mendip.gov.uk](http://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)

- 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
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impacts 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 policies within the Local Plan which seek to prevent new housing outside the development limits (CP1, CP2 and CP4) are out of date and have limited weight, as a result the Local Planning Authority (LPA) cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the NPPF. Therefore whilst regard is had to the specified policies in the Local Plan, the policies in the NPPF are engaged and have substantial weight.

Paragraph 11, requires planning permission to be granted in accordance with the presumption in favour of sustainable development. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole or where its specific policies indicate that development should be restricted.

A similar scheme on the site for a dwellinghouse was submitted under 2020/0775/FUL and was refused at planning board for one reason, lack of information on phosphate mitigation. The current scheme has a revised design from the previous application, which was only single storey, and as such design is still a material consideration, but the principle of residential development on this site has been accepted.

The applicant has entered into a Credit Scheme to offset any harm arising through and increase in phosphates which overcomes the previous reason for refusal. This is discussed further below.

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

Policy DP1 of the Mendip District Local Plan 2006-2029 requires all development proposals to contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district. Furthermore, Policy DP7 states the Local Planning Authority will support high quality design which results in useable, durable, adaptable, sustainable and attractive places.

While impact on the character of the area wasn't cited as a reason for refusal on the previous application, the design of the dwelling has changed and as such fresh consideration must be given to the new proposal. Wells Road, is made up of a mix of housing styles including two and single storey dwellings, both attached and detached, faced with a variety of materials. As such, given the lack of strong street scene, a contemporary detached dwelling in this location would not be considered harmful to the character of the area. Therefore the proposal complies with DP1, DP4 and DP7 of the Local Plan Part 1.

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

DP7 of the Mendip District Local Plan seeks to ensure developments protect the amenity of users of neighbouring buildings and land, providing a satisfactory environment for current and future occupiers. There is a collection of residential properties surrounding the site with one property bordering the site to the south.

The only south facing window at first floor level will be for a spare bedroom and looks out directly towards the side wall of the neighbouring property so won't result in overlooking. No first floor windows are proposed on the southern section of the rear elevation (the section closest to the neighbouring property) and the rear terrace area will be screened on either side by the proposed bedrooms, which reduces any capacity for overlooking,

especially to the private amenity space immediately to the rear of the existing dwelling to the south. In addition, it's not unusual for rear gardens to be partially overlooked by neighbouring properties.

Given the siting of the dwelling to the side of the existing, it's not considered that the proposal will cause an impact through overbearing or loss of light.

It is considered that the proposal by reason of its design, siting, scale and massing complies to Policy DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

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

The proposed access utilises the existing entrance layout adjacent to the neighbouring property, 30 Wells Road. The current access would give adequate visibility to the north and south.

The application shows provisions for 3 parking spaces on the property with a adequate turning area which allows vehicles to enter and exit the site in forward gear.

Therefore, it is considered that the means of access and parking arrangements are be acceptable. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

### **Ecology:**

The applicant has confirmed that if planning permission is granted to build the dwelling as applied for that the foul waters associated with the development would be managed by connecting to the main sewer which would be discharged into the natural environment via the nearest waste water treatment plant. As confirmed in the consultation response provided by the County ecologist, the application site falls within the catchment area of the Somerset Levels and Moors Ramsar Site.

Somerset Levels and Moors Ramsar is designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. In regard to the potential impacts of the development on the Somerset Levels and Moors Ramsar, it is considered that the applicant would need to demonstrate that the proposed development is phosphate neutral and mitigation provided for this development to be acceptable. The mitigation proposed

by the applicant has been achieved through the purchasing of credits from Yew Tree Farm. The cessation of specific activities, namely the piggery, at Yew Tree Farm means that credits from the scheme can be used to mitigate increased phosphorus resulting from new residential development within the same sub-catchment of the Ramsar Site.

Sufficient information has been submitted, in the form of a shadow habitats regulation assessment and evidence of the secured credits, to conclude that the proposed mitigation would be acceptable and there would be no significant increase in phosphate levels within the Brue catchment area of the Somerset Levels and Moors Ramsar Site resulting from this development. As such a Likely Significant Effect alone and in combination under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out. This mitigation will need to be secured through conditions.

An Ecological Assessment submitted with the application found that the development would result in 'No likely significant affect' in terms of ecological harm however the site lies close to a bat maternity roost and as such external lighting should be controlled through condition.

Given the above, and subject to the relevant conditions to secure the mitigation and biodiversity net gain, the development therefore complies with Policies DP5 and DP6 of the adopted Local Plan Part 1: Strategy and Policies 2006-2029 (Adopted 2014), and Part 15 of the National Planning Policy Framework.

### **Refuse Collection:**

There is sufficient space on the site for the storage of both domestic waste and recycling. The property is located on an existing domestic refuse collection route.

### **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 and Planning Balance:**

To conclude, given the history on the site which includes a refusal for a single storey dwelling on phosphates grounds alone, the principle of residential development has been considered acceptable. While the new scheme does propose a revised design, it's not considered that the increase in height on the current proposed dwelling to two storeys, nor the amended materials, would adversely impact on neighbouring amenity or the character of the area. The applicant has purchased Phosphates Credits to offset any harm resulting from the creation of the new dwelling within the Somerset Ramsar and Moors Risk Area.

Given the above, while the site does lie outside development limits, the principle of development was previously considered acceptable and the applicant has now overcome the previous reason for refusal.

### **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: PL4651/1, PL4651/2, PL4651/3, PL4651/4, PL4651/5, PL4651/6, PL4651/7, PL4651/8, PL4651/9

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

3. **Parking Area (Pre-occupation)**

The dwelling hereby approved shall not be occupied until the parking space and turning area shown on drawing PL4651/3 have been laid out in accordance with the



approved plans and made available for the parking of vehicles. The parking space shall thereafter be retained for the parking of vehicles associated with the dwelling and for no other purpose.

Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Hours of Construction (Compliance)**

Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Removal of Permitted Development Rights - No extensions or alterations (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 extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area and residents in accordance with Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Phosphate Credit Allocation (Pre-Occupation)**

No occupation of the dwelling hereby approved shall take place prior to the AMP7 upgrades to the Wells Waste Water Treatment Works AND evidence demonstrating that a sufficient number of credits has been purchased by the applicant to mitigate the nutrient budget totalling to 0.10kr/year under post AMP7 treatment levels. This evidence should consist of an Allocation Certificate, a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with policy DP5 & DP6 of the Mendip Local Plan and Chapter 15 of the National Planning Policy Framework 2023.

7. **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. 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 in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **Wildlife Protection and Enhancement (Pre-occupation)**

No occupation of the dwelling hereby approved shall take place until the mitigation and enhancement as submitted within the Ecological Appraisal of Land at Wells Road, Wookey carried out by Crossman Associates and dated 1st December 2022, has been adhered to and photographic evidence has been provided to the Local Planning Authority for approval. These details include:

- a. Two woodstone or woodcrete sparrow terraces are installed on the north and south facing gables
  - b. New hedgerow planting consisting of a mix of native species of local provenance
- All items will be installed as shown on Figure 1 of Appendix 1 - Site Figures, and Section 4. Recommendations of the Ecological Appraisal

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with 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 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.