

Application Number	2023/1759/FUL
Case Officer	Carlton Langford
Site	Sundance 23 Old Wells Road Shepton Mallet Somerset BA4 5XN
Date Validated	15 September 2023
Applicant/ Organisation	G & C Jackson
Application Type	Full Application
Proposal	Change of use of part of land to a dog training area with associated parking.
Division	Shepton Mallet Division
Parish	Shepton Mallet Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Bente Height Cllr Martin Lovell

What3Words – broker.baker.ramble

Referral to Ward Member/Chair and Vice Chair:

The application has been referred to Planning Board as the agent for the applicant is employed by the Council.

Description of Site, Proposal and Constraints:

This application relates to a parcel of land to the rear of Sundance, 23 Old Wells Road Shepton Mallet. The site is agricultural land (not garden land as suggested by the applicant) as agreed under planning permission ref: 085851/002 (Section 106 attached stipulating the use of the land). There is a single access point off Old Wells Road which served the dwelling and Stables.

The site is within an area of high archaeological potential and phosphate catchment.

Relevant History:

085851/002 – Erection of house, Fuel Store and Stables – Approved August 1998.

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

Ward Member: No response

Parish Council: Members supported this application subject to applicants implementing the recommendations from the environmental officer report.

A recommendation that the use of the space would revert back to the original use subject to the applicants vacating the property.

Planning Policy:

Highways Development Officer: Standing Advice

Ecologist: No response

Environmental Protection: The proposal has the potential to cause significant nuisance to the neighbouring residential properties, regardless of the other activities on the sports grounds. Therefore, we propose the following conditions:

1. The dog training area shall only ever be in use by a maximum of three customers and/or three dogs (not including the Applicants own dogs) at any one time.
2. The dog training area shall only be in use for a maximum of 5 days in any one week.
3. The hours of use shall be between 0900 and 2000 Monday to Saturday with no use on Sundays or Public Holidays.

Reason: To prevent excessive noise and protect the residential amenity of occupiers in accordance with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Advisory: The applicant is reminded that compliance with the conditions attached to this consent or the legitimate use thereof, does not preclude the Council from taking action under legislation intended to protect quality of life including inter-alia; the Statutory Nuisance provisions of Part III of The Environmental Protection Act 1990, The Licensing Act 2003 and the provisions of the Antisocial Behaviour, Crime and Policing Act 2014.

Archaeologist: No objections.

Local Representations: One letter of representation has been received from a neighbouring resident raising the following issues –

The excessive daily use of the drive by clients would result in a grave loss of privacy and reduced enjoyment of our garden.

Full details of all consultation responses can be found on the Council's website

www.mendip.gov.uk

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
- CP3 – Business Development
- CP4 – Sustainable Rural Communities
- DP1 – Local Identity and distinctiveness
- DP5 – Biodiversity
- DP7 – Design and amenity
- DP8 – Environmental Protection
- DP9 – Transport
- DP10 – Parking

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The application site is situated beyond the development limits of Shepton Mallet where development is strictly controlled but may exceptionally be permitted where the development is considered to meet with the criteria as set out within Policies CP3 and CP4 of the Local Plan in that the proposal might promote or support the rural economy.

Policy CP4 is clear that proposals will be supported which enable the establishment of business which are of a manner and of a scale which are appropriate to the location and the constraints upon it.

Having regard for the technical assessment below, it is considered that subject to the control over the frequency of use of the site for dog training, the proposal will be of a manner and of a scale which are appropriate to the location and the constraints upon it.

The proposal is therefore considered to be acceptable in principle in accordance with Policies CP1, CP3 and CP4 of the Local Plan.

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

The proposal is to create on land to the rear of Sundance, a fenced off area for the training of dogs. This will include the need to create within the existing parking area to the front of Sundance an additional 3 parking spaces to support the proposed use (visitor/customer parking).

The erection of the fence to create the dog training area will have very little visual impact on the character or appearance of the area.

The creation of the 3 additional parking spaces will have a slight visual impact on the character and appearance of the street scene but the site is relatively well screened and only glimpsing views of the forecourt will be seen from the public realm and therefore, not so significantly harmful as to warrant the application's refusal.

The appearance, scale, mass, form and layout of the scheme will be acceptable within context and ensure the maintenance of local identity in accordance with Policies DP1 and DP7 of the LP.

Impact on Residential Amenity:

Policy DP7 of the Local Plan seek to ensure that new development protect the amenity of users of neighbouring buildings and land uses providing a satisfactory environment for

current and future uses. Policy DP8 seeks to ensure, amongst other things, that new development does not give rise to adverse noise levels where it might impact on residential amenity.

The Council's Environmental Protection Office has made it clear that the proposal has the potential to cause significant nuisance to the neighbouring residential properties, regardless of the other activities on the sports grounds adjacent to the application site.

However, it is considered that by restricting the level/scale of activity on site to 3 customers at any one time (3 dogs not including the applicant's dogs) and that the use is limited to 5 days within a week not including Sundays and/or Bank or Public Holidays (Monday to Saturday), the scheme will not have an adverse impact on the amenity of residents of neighbouring dwellings or adversely impact on any other neighbouring land uses.

The Council's Environmental Protection Officer has also advised that notwithstanding the suggested condition to control the hours of operation on site should permission be granted, the approved activities would not preclude the Council from taking action under legislation intended to protect quality of life including inter-alia; the Statutory Nuisance provisions of Part III of The Environmental Protection Act 1990, The Licensing Act 2003 and the provisions of the Antisocial Behaviour, Crime and Policing Act 2014.

Whilst it is appreciated that customers will have to walk from the parking area at the front of the dwelling along a boundary with a neighbouring resident to the training area at the rear, this will be relatively infrequent on arrival and departure only and will not result in unacceptable levels of mustering which might adversely impact on neighbouring amenity over or above that which might currently exist.

It is therefore considered that subject to the imposition of the condition as suggested by the Council's EP Officer, the proposal will protect the amenity of users of neighbouring buildings and land uses and maintain a satisfactory environment for current and future occupants in accordance with Policies DP7 and DP8 of the LP.

Assessment of Highway Issues:

The proposal is to utilise an existing access point to the dwelling and create an additional parking in the existing forecourt for customers.

The plans submitted with the application show adequate visibility at the access point sufficient within a 30mph traffic speed zone and having regard for the additional traffic generated by the proposal in accordance with Policy DP9 of the LP.

The plans also demonstrate that 3 additional off-street parking spaces or more can be accommodated on site for customers and to maintain sufficient off-street parking for the dwelling. However, no tracking diagram was submitted with the proposal to clearly demonstrate adequate on-site turning should all parking spaces be occupied. It is however, considered that suitable on-site turning could be achieved within the confines of the existing forecourt, and it is recommended that notwithstanding the details submitted, a clear parking and turning plan be submitted to the council for approval and provided before the proposed use is commended.

Notwithstanding, the approval of a workable on-site parking and tuning plan to ensure vehicles can manoeuvre on site to allow access and egress in forward gear, the proposal is considered to be acceptable in terms of highway safety and will provide the necessary off-street parking provision in accordance with the Countywide Parking strategy and Policies DP9 and DP10 of the LP.

Ecology:

The development is such that it will not have an adverse impact on protected wildlife or any protected wildlife habitation over or above how the land is currently used.

Whilst the site is within a phosphate catchment area, the type of development proposed is except from needing to demonstrate phosphate neutrality.

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:

The proposed use is acceptable in principle raising no adverse design, amenity or highway safety concerns which cannot be overcome through the imposition of conditions and the application 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:

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

3. Restricted Use (Compliance)

1. The dog training area shall only ever be in use by a maximum of three customers and/or three dogs (not including the Applicants own dogs) at any one time.

2. The dog training area shall only be in use for a maximum of 5 days in any one week.

3. The hours of use shall be between 0900 hours and 2000 hours Monday to Saturday with no use on Sundays or Bank or Public Holidays.

4. An up-to-date register of all bookings for use of the dog training area (including names and addresses of customers, times and dates) shall be maintained and this information shall be made available at all reasonable times to the Local Planning Authority.

Reason: To prevent excessive noise and protect the residential amenity of occupiers in accordance with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Parking and Turning (Pre-Use)**

Notwithstanding the details submitted, the use of the dog training area shall not commence until plans have been submitted to and approved in writing by the Local Planning Authority showing 6 number on-site parking spaces (3 for the existing dwellinghouse and 3 for visitors) in addition to unobstructed on-site turning. The vehicular parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the approved dog training area and dwellinghouse.

Reason: To ensure that suitable parking and turning areas are provided and thereafter retained 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).

5. **Visibility Splay (Compliance)**

There shall be no obstruction to visibility exceeding 600 mm above ground level within the visibility splay as shown on drawing number 2488/01A. The visibility splays shall be retained permanently thereafter.

Reason: To ensure sufficient visibility is maintained 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).

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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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 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.

4. The applicant is reminded that compliance with the conditions attached to this consent or the legitimate use thereof, does not preclude the Council from taking action under legislation intended to protect quality of life including inter-alia; the Statutory Nuisance provisions of Part III of The Environmental Protection Act 1990, The Licensing Act 2003 and the provisions of the Antisocial Behaviour, Crime and Policing Act 2014.