

Application Number	2021/2525/FUL
Case Officer	Kelly Pritchard
Site	Greenhill Barton Road Butleigh Glastonbury Somerset
Date Validated	1 December 2021
Applicant/ Organisation	G Gilbert
Application Type	Full Application
Proposal	Change of use of agricultural land to holiday let and erection holiday let unit, yurts, kitchen and shower unit (Retention of works partially completed)
Division	Mendip South Division
Parish	Butleigh Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

### **What Three Words: stunning.kitten.marsh**

#### **Referral to Planning Committee:**

Following referral to the Chair and Vice-Chair of the Planning Committee, as the case officer recommendation is to refuse, and the Parish Council recommended approval, the vice chair has requested that the application be determined by the Planning Committee.

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

The application relates to field to the north of Barton Road, Butleigh. The site is known as Greenhill. The site has vehicular access from the classified 3 unnumbered road which is shared with a public footpath. A stone track from road slopes down to site. Currently within the field there are some Yurts which are rented out as holiday lets and a stable building.

The site is located outside defined development limits, within a Priority Habitat (1 4) and Priority Habitat (2 4) area. The site is also within the Somerset Levels and Moors Ramsar Risk Area and a Site of Special Scientific Interest Impact Risk Zone. The public footpath (WS 2/49) runs along the access track to the site.

The phosphates impacts of the development will be discussed later in the report, but for reference the phosphate mitigation site is located to the north west of the site on land within the applicant control. The NAMS, shadow HRA etc. was submitted in August 2023.

The mitigation site is also within a Priority Habitat (1 4) and Priority Habitat (2 4) area. The site is also within the Somerset Levels and Moors Ramsar Risk Area and a Site of Special Scientific Interest Impact Risk Zone. The public right of way continues through the mitigation site (WS 2/39).

The application seeks full planning permission for the change of use of the land from agricultural to holiday let for the existing yurts on the site which include two yurts, a kitchen and shower unit. It also proposes to replace the existing stable building and another small building with a single storey three bed holiday let which includes a therapy and yoga room. The walls will be timber clad, the roof will be dark corrugated metal with rooflights, with aluminium or timber windows.

It is envisaged that the therapy room and yoga room will be used by guest only.

The existing access drive to the highway will be utilized. The highway is a class 3 with a 60mph speed limit.

During the life of this application the red line shown on the site plan was reduced see 1555/001 Rev B received 18.07.23

#### **Relevant History:**

No recent relevant planning history.

#### **Summary of Divisional Councillor comments, Parish Council comments, representations and consultee comments:**

Divisional Member: No comments received.

Butleigh Parish Council: Supports the application.

Contaminated Land: - Due to former agricultural uses of the site, it would be advised to keep a watching brief for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.

Land Drainage: No objection subject to pre-commencement conditions concerning surface water and foul disposal.

- The threshold of the holiday let will be at least 300mm above the existing ground level to protect the accommodation from potential surface water runoff.
- Soakaways are proposed for the management of surface water if ground conditions allow.

- Non-mains foul drainage to a package treatment plant and drainage field is proposed. An alternate solution to be presented, as a proof of concept, such that if percolation testing and ground water level investigations did not support the use of a drainage field for infiltration of treated effluent a viable means of foul drainage for the site is available and the detailed drainage design could be conditioned.

Somerset Rights of Way: No objection subject to informative to go on the decision if approved.

- The LPA must be confident that the applicant can demonstrate they have all purpose vehicular right to the property along path WS2/49.

Somerset Wildlife Trust: No comments received.

Ecology: – A shadow HRA has been undertaken. Wastewater volume will be treated by a non-chemically dosed PTP. The phosphate budget calculator shows a total phosphorous budget for the development site as 0.49kg TP/year, based on a yearly occupancy rate of 80%, the accepted occupancy average for holiday lets in Somerset.

Off site mitigation has been secured via a mitigation strategy of planting 1.28h of woodland planting on a site 100m northwest of the development site at minimum density of 900 trees per hectare. The ecological appraisal for the mitigation site found no evidence of priority species, but a recommendation was made to avoid planting the woodland during peak bird breeding season.

After consultation with Natural England and their conclusion being that the proposal will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation based on the Shadow Habitats Regulations Assessment, then SES have no objection subject to a legal agreement to secure the mitigation proposed (woodland). The legal agreement should also secure a Landscape and Ecological Management Plan (LEMP). Planning conditions should include foul drainage compliance, and securing a maintenance plan for the PTP.

Natural England: No objection.

Local Representations:

We have received six letters of support and their comments are summarised below;

- This is good for tourism in the area.
- It would add to the character of the area.

Full details of all consultation responses can be found on the Council's website [www.somerset.gov.uk](http://www.somerset.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) (MDLP)
- Mendip District Local Plan Part II: Sites and Policies (December 2021) (post JR version)
- Somerset Waste Core Strategy
- Somerset Mineral Plan (2015)

The following policies of the Local Plan Part I are relevant to the determination of this application:

- CP1 (Mendip Spatial Strategy)
- CP2 (Supporting the Provision of New Housing)
- CP3 (Supporting Business Development and Growth)
- CP4 (Sustaining Rural Communities)
  
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity and Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity of New Development)
- 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 (NPPF)
- National Planning Practice Guidance (NPPG)
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- 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 situated outside any defined settlement limits, within a location isolated from tourist attractions, services and facilities, where development is strictly controlled. The application proposes the change of use of the land from agricultural, the retention of the yurts for holiday let and the demolition of the existing stable building along with another smaller building and the erection of a new building also for use as a holiday let. Holiday lets are a C3 residential use albeit it would be controlled residential use.

Core Policy 1 (CP1) of the adopted 'Mendip District Local Plan - Part 1' says that to enable the most sustainable pattern of growth for Mendip District the majority of development will be directed towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). Core Policy 2 (CP2) seeks to direct new residential development towards the principle settlements and within the defined settlement limits. The Local Plan's emphasis is on reusing previously developed land within existing settlement limits.

Core Policy 3 (CP3) of the Local Plan says that proposals for economic development will be supported where they accord with CP1, and encourage a diverse, robust, thriving, and resilient local economy. Proposals for economic development will be supported where they limit the growth in demand for private transport and are accessible by sustainable transport modes.

The Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the Local Plan, which seek to prevent new housing outside the development limits of settlements (CP1, CP2 and CP4) currently have limited weight. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted. The provisions as set out at Paragraph 11(d) of the NPPF will be considered in completing the overall planning balance.

Although the site is outside of development limits where development is strictly controlled, CP1 allows for development to be approved outside development limits as an exception where it meets the criteria set out in Core Policy 4 (Sustaining Rural Communities). CP4 (4b) supports development of the rural economy as set out in CP3 which enable the

establishment, expansion and diversification of business in a manner and of a scale which are appropriate to the location and the constraints upon it. CP3 offers general support for applications which extend the attraction of the area to visitors. However, this general support does not override the need for such development proposals to be considered against the development plan as a whole.

The NPPF provides support for rural tourism development however, support for rural economic development is not unconditional and there is a distinct emphasis on development that is sustainable in nature. The development proposed is not considered sustainable, it is in a location which is remote from public services and facilities. The site is not served by footpaths or pavements with street lighting, there will be a reliance on the use of the private vehicle to access the development and to access services and facilities whilst holidaying here.

The holiday let would be the establishment of a rural business and extend the attraction of the area to visitors; however, when considering policies which seek the protection of the countryside from unnecessary development and in the planning balance, it is considered that the tourism accommodation proposed does not justify the inaccessible form of development, or the negative impacts on the character of the land as detail further in this report.

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

DP1 states that development should contribute positively to the maintenance and enhancement of local identity, and proposals should be formulated with an appreciation of the built and natural context. DP7 states that the LPA will support high quality design, and that development should be of a scale, mass, form, and layout appropriate to the local context.

DP4 states proposals for development that would, individually or cumulatively, significantly degrade the quality of the local landscape will not be supported. The determination of planning applications will consider efforts made by applicants to avoid, minimise and/or mitigate negative impacts and the need for the proposal to take place in that location. Outside designated landscape areas, proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features of the Landscape Character Areas.

The site is within the open countryside recognised for its intrinsic beauty and contribution to the experience of visitors and local people.

The existing site is of a rural character which accommodates a modest stable building which is utilitarian and functional and which is not uncharacteristic feature in the

countryside. The existing stable and associated small building have a combined floor area, excluding the overhang of the roof, of 49.58 square metres. The ridge height of the stable is 2.8m and the other existing building is 3.5m. The holiday let will be 4.5m high and including the roof overhang, the proposed floor is approximately 269 square metres.

Focusing on the new building as the yurts are more temporary in nature, it is acknowledged that the design has made efforts to minimise the proposed dwelling's impact on the character and appearance of the area, namely being single storey. However, the larger, higher building now proposed with its domestic openings, including rooflights would result in a development that represents urban encroachment of residential and associated development into the countryside contrary to the prevailing rural character, thereby result in harm.

As such the development proposed would harm the rural character of the area contrary to DP1, DP4 and DP7 of Mendip Local Plan Part I. The assessment of whether the benefits of the development outweigh the harms identified is within the 'Planning Balance' section below.

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

Given the distance from other dwellings, and the design, scale, massing, and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic, or other disturbance. In these respects, the proposal accords with Development Policy 7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

#### **Impact on Ecology:**

In November 2021 a bat and bird scoping survey was submitted for the application site which was a larger site than currently being considered as the red line has been reduced during the life of the application. The report concluded that the buildings on site which are to be demolished had negligible bat roost potential. The report makes recommendations for biodiversity enhancements and although Somerset Ecology appears to be silent in regard to biodiversity on the application site save for the phosphates and phosphate mitigation, if the application was approved on site enhancements could be controlled by condition.

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates, and a Site of Special Scientific Interest Impact Risk Zone. 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 drainage discharges. As the designated site is in 'unfavourable' condition any increase, including from single dwellings is seen as significant, either alone or in combination with other developments.

The impact of the development on a Ramsar site, by way of the potential to increase phosphate levels, is a material consideration. Therefore, the drainage details, with particular regard to phosphate generation and mitigation, are required to inform the Habitat Regulations Assessment for the current application, in order for the LPA to discharge their legislative duties in this respect.

A shadow HRA has been produced and accepted by Somerset Ecology and Natural England. The mitigation strategy to achieve nutrient neutrality is the planting of woodland to the northwest of the application site. Subject to a suitable legal agreement and conditions as suggested by Somerset Ecology, the application is considered to be compliant with Policies DP5, DP6 and DP8 of MDLP and the Habitat Regulations.

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

Policy DP9 of the local plan, and the NPPF seek to promote sustainable transport options, such as walking, cycling or public transport. Policy CP3 supports sustainable rural tourism and leisure developments via conversion of existing building when the site is located outside the settlement limits. The site is remote from shops, services and facilities. Public transport options are limited and walking or cycling journeys to meet every day needs would generally be impractical. In the absence of realistic sustainable transport options, the proposal would unjustifiably foster the growth in the need to travel by private car. As such the proposal does not represent sustainable development.

The proposed plans do not show the parking arrangements for the site however, it is considered that parking can likely be provided on land adjacent and within the land that the applicant owns. As such if this application were approved, providing we restricted the number of holiday lets on site and secured a parking plan, it is considered that the development could comply with SCC Parking Standards and policy DP10 of MDLP.

The comments of the rights of way officer are noted with respect to the all purpose vehicular rights to the property along the public footpath WS2/49 which runs along the access drive. The access drive currently serves a dwelling and some craft workshops. This is a civil issue and is the existing arrangement.

The visibility when pulling out of the existing access is restricted by the existing roadside hedge especially to the west. If permission is granted for the development this would be an intensification of use of the existing vehicular access which is substandard. Somerset

Highways Standing Advice says that speed survey data, or observation on site, can help to inform a judgement on the visibility splays required. The speed limit along this part of the highway is 60mph, but it is likely that traffic would be going slower than this given the width of the road. However, the application submission is silent with regards to the existing or proposed visibility splays and no traffic speed survey to inform the visibility splays that are required has been provided. It is unlikely that improved visibility could be achieved on land within the applicant's control and any reduction in height of the roadside hedge would result in harm to the character of the lane.

There is no evidence to demonstrate that improvements to visibility can be provided on land within the applicant's control.

The application would result in an intensification of use of the existing vehicular access. The application has failed to demonstrate suitable visibility splays required in the interests of highway safety or that improvements to visibility will not result in harm to the character of the rural street scene by virtue of the loss of hedgerow.

The development therefore does not comply with policies CP3, DP9, DP1, DP4 and DP7 of MDLP.

#### **Land Drainage:**

The proposed development will not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

#### **Refuse Collection:**

The site is considered capable of providing adequate storage space for refuse and recycling.

#### **Environmental Impact Assessment:**

This development is not considered to require an Environmental Assessment 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.

### **Planning Balance:**

The proposed development would result in residential dwellings to be used as holiday accommodation. The development would secure socio-economic benefits both through construction investment and by the contribution future occupiers would make to the local economy and to supporting local services.

The proposal would not contribute to housing land supply where there is a shortfall because holiday accommodation is not included in the Council's Housing Land Supply figures. As identified above, the proposal would cause harm to the character and appearance of the area by virtue of the urban encroachment into the countryside, detrimental impact on the highway hedge and it would foster the growth in the need to travel by private car.

### **Conclusion:**

The principle of development is unacceptable as the site lies in the countryside outside the development limits where development is strictly controlled. The proposal does not represent sustainable development by virtue of its distance and poor accessibility and connectivity to local services and facilities. It would result in harm to the character and appearance of the area, and detrimental to highway safety.

Any limited economic benefits that could be attributed to the development given the proposed uses as tourist accommodation associated with this development does not outweigh the harm identified.

For this reason, it is recommended that planning permission is refused.

### **Recommendation**

Refusal

1. The proposed development lies in the countryside outside defined development limits where development is strictly controlled. The site's distance and poor accessibility and connectivity to local services and facilities would foster growth in the need to travel by private vehicle and is therefore unacceptable in principle. Any limited economic benefits concerning the use of the site as tourism accommodation is not considered to outweigh the harm identified. The proposal is

therefore contrary to the provisions of Policies CP1, CP2, CP3, CP4 and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework and Planning Practice Guidance.

2. The proposed development would fail to maintain or enhance the environment and its urbanising effect and encroachment into the countryside along with the harm to the roadside hedge in order to provide improved visibility splays, would have a harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to the provisions of Policy DP1, DP4 and DP7 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted Dec 2014), the National Planning Policy Framework and Planning Practice Guidance.
3. Insufficient detail has been provided to support the proposed intensification of use of the access to serve the development in terms of the visibility at the junction with the public highway in order to satisfactorily demonstrate that the development would not be detrimental to highway safety. The proposal is therefore contrary to the criteria set out under Policy DP9 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted Dec 2014) which requires all proposed development to make safe and satisfactory provision for access by all means and thus avoid causing traffic problems for the wider transport network. As such the proposal is contrary to Policy DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework and Planning Practice Guidance and Somerset Highways Standing Advice.

## **Informatives**

1. This decision relates to;

Bat and Bird Scoping Survey Report dated June 21.

Arboricultural Method Statement dated 13.05.21

Drawing 1555/030, Floor Plan

Drawing 1555/020, Existing Elevations

Drawing 1555/050 Rev C, Proposed Elevations

Drawing 1555/041 Rev A, Proposed Elevations

Drawing 1555/040 Rev B, Proposed Elevations

Drawing 1555/024, Proposed Shower Elevations

Drawing 1555/023 Rev A, Proposed Kitchen Elevations

Drawing 1555/022 Rev A, Yurt B Elevations

Drawing 1555/021 Rev A, Yurt A Elevations

Drawing 1555/014 Rev A, Proposed Shower Plan

Drawing 1555/013 Rev A, Proposed Kitchen Plan

Drawing 1555/012 Rev B, Proposed Yurt B Plan

Drawing 1555/011 Rev A, Proposed Yurt A Plan

Drawing 1555/010, Existing Building Plan

Drawing 1555/002 Rev A, Block Plan all validated on 01.12.21

Drawing 1555/003 Rev A, Proposed Block Plan received 07.02.22

Preliminary Ecological Appraisal - Mitigation Site dated May 2023 received  
24.05.23

NNAMS and Mitigation Strategy Rev C dated 13.07.23 received 18.07.23

Drawing 1555/001 Rev B, Site Plan received 18.07.23

Shadow HRA Version 2, dated 24.08.23, received 24.08.23