

Application Number	2023/0987/OUT
Case Officer	Jennifer Alvis
Site	Sourdown Farm Sub Road Butleigh Glastonbury Somerset
Date Validated	2 June 2023
Applicant/ Organisation	D Sharland
Application Type	Outline Application
Proposal	Application for Outline Planning Permission with all matters reserved for a 1no. replacement dwelling.
Division	Mendip South Division
Parish	Butleigh Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

What 3 Words:

Access to the Site - splints.cookies.sending

Location of Dwelling - boils.agency.term

Referral to Planning Board:

This application is referred to Planning Board because the application is a departure from the local plan as it proposes a new residential property outside of settlement limits.

Description of Site, Proposal and Constraints:

The application relates to land to the west of Sub Road in Butleigh. There is a temporary dwelling already on the site along with one large agricultural building. In planning terms the site lies in the countryside outside of a Settlement Limit and within the Somerset Levels and Moors Ramsar Risk Area. A public footpath runs along the rear of the site, parallel to Sub Road. There are no other planning designations on the land.

The application seeks outline planning permission with all matters reserved except the access, for the erection of a 1.5 storey dwelling. There is an existing temporary dwelling on the site which was granted permission under 2016/1082/FUL. However, as this permission was only temporary, and the original associated use for which the dwelling was granted

appears to have largely ceased, this cannot be used as a fallback position and fresh consideration must be given to a new permanent dwelling in this location.

Relevant History:

- 2013/0626 - Prior notification for the erection of an agricultural building - Approved - April 2014
- 2014/1125/OTA - Outline planning application (all matters reserved for subsequent approval) relating to residential development. - Refused - August 2024
- 2014/2240 - Application for prior notification of agricultural development for a proposed steel framed building.- Prior Approval not Required - November 2014
- 2015/2799/FUL - change of use part of agricultural storage shed to provide premises for Avalon Waste Management Ltd - Withdrawn - Feb 2016
- 2016/1082/FUL - Proposed erection of an agricultural building for free range hens, and associated single storey temporary dwelling. - Approved - August 2016

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

Ward Member: No response

Parish Council: Supports the application

Local Highway Authority: Standing advice applies

SCC Ecologist: It's considered beyond reasonable scientific doubt that any such impacts on the Somerset Levels and Moors Ramsar Risk Area will be fully mitigated and the development will not adversely affect the integrity of the Somerset Levels and Moors Ramsar site either alone or in combination with other plans or projects, subject to the adoption of the sHRA.

Natural England: The appropriate assessment concludes that it can be ascertained that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

Contaminated Land Officer: Due to the nature of the former use of the site as a farm, there

is the potential for the contamination to be present on the site. It would therefore be advised to keep a watching brief for potential hotspots of contamination

Environmental Protection: No objection subject to an hours of work condition

Local Representations: No letters of representation have been received

Full details of all consultation responses can be found on the Council's website 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)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)
- Somerset Waste Core Strategy (adopted February 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 – Housing
- 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
- 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
- The Countywide Parking Strategy (2013)

Assessment of relevant issues:

Principle of the Use:

The application site is located in the open countryside and outside of any development limits, as defined in the Local Plan, where development is strictly controlled.

The strategic Core Policies within the Local Plan which seek to prevent new housing outside the development limits as referred above are now out of date and therefore can not be attributed full weight in the decision making process. In addition, and as a result of the adoption date of LP1, 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.

As such, Paragraph 11(d) will be taken into account in determining this application, where the LPA will make an assessment as to whether any adverse impacts of the development would be significantly and demonstrably outweighed by the benefits associated with the proposal.

The policies within the NPPF seek to direct new residential development towards sustainable locations and, similar to CP4, a number of exceptions are provided for within paragraph 80 where a dwelling in the countryside might be acceptable.

However, paragraph 80 reads:

"Planning policies and decision should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply..."

Whilst falling outside of designated development limits, the proposal falls on the edge of the built village of Butleigh, a Primary Village as designated by the Local Plan, with the development limits ending on the eastern side of Sub Road, opposite the application site.

The village falls 3km south of Street as the closest principle settlement designated by the Local Plan with regular bus services linking the two. The village itself is served by the following services: a school, post office and village stores and a Church.

It is therefore considered that residential development as proposed here would not be isolated, when judged against the policies in NPPF framework .

Although there is a dwelling already on the site, this only benefits from a temporary permission and as such cannot be used as a material fall back position.

Finally, the site lies within the Somerset Levels and Moors Ramsar Risk Area where there is the potential to result in additional harm to already unfavourable condition of the Ramsar Area. Mitigation has been proposed to offset this harm which is discussed further below.

Character and Design

The scheme as proposed is for a 1.5 storey dwelling to the south west of the existing large barn, with associated access and landscaping. The details of the design are held back for reserved matters but the principle of a 1.5 storey dwelling on this site would be considered acceptable in terms of impact on the character of the area subject to a condition which restricts the height of the dwelling given its semi-rural location on the edge of the village. A hedge row is proposed along the western boundary which will screen the development from the public footpath that runs north to south along this edge of the site.

Impact on Residential Amenity:

Given the rural nature of the site there are no residential dwellings within close proximity which would likely be impacted by the proposed dwelling however full consideration of the impact on neighbouring residential amenity will be considered at reserved matters stage.

Assessment of Highway Issues:

The application proposes to utilise the existing access which already serves the temporary dwelling, to be demolished, and the existing agricultural building on site. The demolition of the temporary dwelling would result in the net number of properties on the site remaining the same and as such it's not considered additional vehicle movements would be created as a result of this application. The existing access onto Sub Road has good visibility in both directions.

There is ample space within the site for the parking and turning of vehicles and further consideration of the parking requirements can be undertaken at the reserved matters stage and secured through condition.

The means of access and parking arrangements are acceptable and maintain highway

safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and part 4 of the National Planning Policy Framework.

Ecology

An Extended Habitats Survey undertaken by Country Contracts dated May 2023, was submitted with the application. No evidence of roosting bats was recorded on site, with the existing timber dwelling being assessed as having a negligible potential for roosts however a number of suggested mitigation methods have been suggested by the licenced ecologist in the Survey which can be secured through condition. No reptiles, badgers or nesting birds are found to be present within the site. Providing mitigation and enhancement measures are followed, no adverse impacts to bats or nesting birds are predicted. Informatives reminding developers of the legal protection afforded to badgers and their resting places, as well as breeding birds, are to be attached to any permission.

As the application has not included a detailed lighting plan, the standard lighting for bats condition is recommended as well. Due to the sensitive rural setting and the ecological sensitivity of the site, this is considered reasonable and necessary.

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. The Ramsar is in 'unfavourable condition' or at risk from the effects of eutrophication caused by excessive phosphates. As such, any new housing development is likely to give rise to additional phosphates within the hydrological catchment. Mitigation is therefore required to ensure that the development achieves nutrient neutrality.

The submitted Nutrient Neutrality and Mitigation Strategy (NNAMS) identifies that the proposal would result in an increase in phosphorous in the catchment of the Ramsar site. There is currently a temporary dwelling located on site which discharges to a septic tank with a final discharge to water however as this is a temporary dwelling it's not able to be used as a fall back position in terms of phosphate mitigation and the site must be considered as undeveloped land. To achieve nutrient neutrality, an existing septic tank serving Hill Farm Cottage will be upgraded to BS certified package sewage treatment plant. The mitigation site is in the same Brue catchment as the application site. With the mitigation in place at Hill Farm Cottage, the phosphate budget arising from the proposed development would be off-set and therefore there would be no adverse effects on the Somerset Levels and Moors Ramsar site.

Sufficient information has been submitted, in the form of a shadow habitats regulation assessment, 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 and 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 a legal agreement as it's not within the red line area of the primary site.

Given that the site is already highly maintained as part of the curtilage of the temporary dwelling, it's not considered to have potential for prime ecological habitat and therefore no other ecology concerns are raised in relation to this application.

Given the above, and subject to the relevant conditions and legal agreement to secure the phosphate mitigation and biodiversity net gain, the development therefore complies with Policies DP5 and DP8 of the adopted Local Plan Part 1: Strategy and Policies 2006-2029 (Adopted 2014), and Part 15 of the National Planning Policy Framework.

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 & Planning Balance:

The proposal, whilst outside of designated development limits the site is not considered to be a remote location and is readily accessible to the services and facilities that are within Butleigh. It is noted that the application scheme will contribute a single dwelling towards the stock of housing across the district.

Whilst the benefits of the application are considered limited in scope given that no design, amenity, highway safety and/or ecology issues have been raised through the assessment of the application, the titled balance promoted by Paragraph 11d is considered to apply in this case with planning permission being recommended as a departure from the development plan.

The application is therefore recommended for approval subject to the conditions as set out below and to the provisions of a legal agreement to secure the phosphate mitigation as referred above.

Recommendation

Approval

Conditions

1. Outline Time Limit (Compliance)

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Reserved Matters (Pre-commencement)

Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

3. Reserved Matters Time Limit (Compliance)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

4. Plans List (Compliance)

This decision relates to the following drawings: F1697_001D

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

5. Demolition of Existing Dwelling (Pre-Occupation)

No occupation of the dwelling hereby approved shall commence until the temporary dwelling on site has been demolished to ground level and the site returned to its former condition or that agreed with the Local Planning Authority,

Reason: The site is within the Somerset Levels and Moors Ramsar Risk Area and the demolition of this temporary dwelling will prevent a harmful increase in phosphate loading which would result if both dwellings were present on site. This is in

accordance with Policy DP5 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. Due to the former use of the site a watching brief should be kept for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.
If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.