

Application Number	2023/2304/FUL
Case Officer	Kelly Pritchard
Site	Tilham Farm Tilham Lane Baltonsborough Glastonbury Somerset
Date Validated	28 November 2023
Applicant/ Organisation	Mr & Mrs Symonds
Application Type	Full Application
Proposal	Demolish Barn B and erection of 4 x 1-bed residential dwellings.
Division	Mendip South Division
Parish	Baltonsborough Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

### **What Three Words: ideas.shred.sprouting**

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

The application proposes new residential development outside of settlement limits. The officer recommendation is for approval, and therefore in accordance with the scheme of delegation this application is referred to Planning Committee as a departure from the local plan.

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

The application relates to a barn at Tilham Farm, Tilham Lane, Baltonsborough. The site benefits from two points of access from the public highway, one from Ham Street the other from Tilham Lane.

The site is located outside defined development limits, within a Site of Special Scientific Interest Impact Risk Zone and within the Somerset Levels and Moors Ramsar Risk Area.

The application seeks full planning permission for the demolition of the existing barn and erection of 4 x one bed dwellings. The dwellings will be formed by two blocks of two dwellings opposite each other and will be single storey. The red line application site confirm that the existing access from Ham Street will serve the proposed units and an additional as referred below (refer to LPA 2021/2922/FUL which is shown on the submitted location plan). The design, siting and external appearance of the buildings to accommodate the 4 dwellings will be the same as that consented by application,

2022/1619/PAA, comprising single storey accommodation with a palette of materials for the walling and roof construction of timber cladding with a corrugated roof.

Other relevant information: To the north east of the site is an existing open fronted barn which has the benefit of planning permission to be demolished and a new dwelling erected under LPA case ref: 2021/2922/FUL.

### **Relevant History:**

- 067276/002AG - Removal of agricultural buildings, erection of a dutch barn and formation of a new vehicular access and track off Ham Street to serve the agricultural unit. Permission required. 31.01.03
- 067276/003 - Extension to existing dwelling, conversion of barn into additional ancillary accommodation, erection of garaging and workshop and use of land as domestic curtilage. Approval. 07.03.03
- 067276/004 - Creation of an agricultural access onto Ham Street. Approval. 17.04.03
- 067276/006 - Erection of agricultural barn for livestock accommodation. Approval. 15.12.04
- 067276/008 - Erection of a holiday let together with annexe, workshop, garage and conversion of outbuilding into additional ancillary accommodation to serve Tilham Farmhouse. Approval. 04.08.05
- 067276/009 - Erection of 2 holiday lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham farm. Approval. 03.07.07
- 067276/010 - Erection of 2 Holiday Lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham Farm. Approval. 26.09.07
- 2022/1619/PAA - Prior Approval for a proposed change of use of agricultural building to four dwellinghouses (Class C3) and for associated operational development. Deemed consent. Prior approval given. 21.10.22
- 2023/1117/FUL - Conversion of barn into four dwellings. Withdrawn. 21.12.23

- 2021/1398/PAA - Prior Approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development. Prior approval given. 04.08.21 (this refers to the open fronted barn to the north east of the barn being considered as part of this application)
- 2021/2922/FUL - Demolish the existing barn with a previously approved Class Q change of use and erection of dwellinghouse. Approval. 01.08.22 (this refers to the open fronted barn to the north east of the barn being considered as part of this application)

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

Divisional Member: No comment received.

Baltonsborough Parish Council: Refusal.

- Questions remain unanswered regarding highways, storage of refuse.
- It is outside development limits.
- Its footprint and design is totally different to the plans passed under class Q.

Highways Development Officer: Additional information is required.

There are two existing access points to this site, both are onto highways subject to the national speed limit. The access point onto Tilham Street is adjacent to a residential dwelling and a high stone boundary wall, at this point visibility is restricted. Given both accesses fall within national speed limits visibility splays in accordance with manual for streets should be provided. Any reduction should be justified. The visibility splays must be across land with the applicants control or highway land.

Parking and turning plans are required which should show 2 spaces per dwelling, in addition the plans should include cycle storage and electric charging points.

Environmental Protection: No objection.

Ecology: No comments received.

Somerset Council Waste Services: No objection.

Somerset Council Waste Services has no objection to the proposed application, however would recommend that due to the increased number of proposed properties using the roadside collection point, that a storage area is provided near the roadside so that bins

and/or recycling containers for the total of 5 properties can be adequately put out without blocking the entrance/visibility to the highway.

NOTE: Since receiving this comment, the waste partnership have confirmed that providing the storage area/collection point is within 15m of the highway, which I can confirm it is, then they have no objection.

### Local Representations:

We have received two letters of objection and their comments are summarised below:

- Environmental impacts.
- Unsustainable location, remote.
- May set an unacceptable precedent.
- Development will not provide an unmet need for affordable housing.
- It is unproven that it is more sustainable to rebuild an energy efficient building, rather than convert an existing building.
- Fallback position is irrelevant as the development now proposed is new build.
- Development is not in accordance with development plan (CP1 and CP4).
- The access onto Ham Street and the refuse storage/collection area is harmful to amenity of the occupiers of Meadow Cottage.
- The bin store is too small and a larger one would have a visual impact.
- The visibility splay angle to the east goes through the hedge of Meadow Cottage and is 60m not 90m as shown. Cars travelling from the east can potentially still be moving at 60mph prior to breaking as they approach the 30mph speed limit.

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 strongly 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) (post JR version, 16 December 2022)
- 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)
- 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 site is within open countryside, outside the settlement limits in an isolated location, where development is strictly controlled.

Policies CP1 and CP2 of MDLP seek to direct new residential development towards the principal settlements and within defined Development Limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF. Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions (Development Policies 12, 13, and 22), which do not apply in this case. Policy CP1 directs that new housing should

be located in sustainable locations in the 5 market towns and villages near to services and facilities.

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) can not be given full weight in the decision making process on this application. 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.

Paragraph 188 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

The Parish Council have commented that the development proposed is different to the prior approval application, however it is not clear why they conclude this. Prior approval has been given and is extant for an identical scheme to this proposal under application reference 2022/1619/PAA which does not expire until October 2025. There is sufficient time remaining that this consent could be implemented and completed if an alternative proposal did not proceed. As such it is considered that there is a reasonable prospect that the extant prior approval would be implemented if the current application were refused. Development in the open countryside outside development limits is strictly controlled, but in this instance the planning history, together with the five-year housing land supply position is considered to carry significant weight in the determination of this application.

An assessment of this current application in terms of compliance with the relevant development policies is set out below. The primary consideration being whether the scheme now being considered in this rural location would be harmful.

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

The design of the building is the same as the prior approval application albeit a new build rather than a barn conversion. It is considered that the development proposed has similarities to an agricultural building and will retain, to some degree, the agricultural character of the cluster of buildings on this site.

The materials for the development can be controlled by condition and permitted development rights can be removed in order to control excessive alterations to the buildings which might otherwise erode their agricultural character.

It is considered that the proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policies 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 farm complex and residential dwellings at this site are currently served by two existing vehicular access, one accessing onto Tilham Lane, an unclassified highway subject to the national speed limit, the other onto Ham Street, a classified un-numbered highway also subject to national speed limit.

Somerset Highways have commented that the access point at Tilham Lane would be restricted due to the existing house and wall. They also say that visibility splays for both accesses should be in accordance with manual for streets or any reduction should be justified.

There are currently no controls with regards to which property exits which access point and both accesses are in existence. The submitted application indicates that access to serve the four dwellings proposed would be via the Ham Street access.

The site currently consists of the farmhouse and two flats and the agricultural unit associated with the site. There is the potential for a further dwelling to the north east of this current proposal which has an extant permission, reference 2021/2922/FUL and the Class Q for four dwellings. Cumulatively, there could be eight properties plus the agricultural activity utilising either access.

Drawing number 1839/004 Rev A confirms the access arrangements for the proposed dwellings from Ham Street and that the access to the west (Tilham entrance) will be blocked off .

The applicant's agent has confirmed that the Tilham farmhouse access will be retained to serve the farmhouse, tourism units and for small scale limited agricultural traffic.

It is considered that the reduction in the numbers which could potentially utilise the Tilham entrance would be an improvement in highway safety terms. The Ham Street

entrance would be utilised by five dwellings and possibly a low number of agricultural movements.

During the life of the application a visibility splay plan has been provided which demonstrates the currently visibility splays afforded to the Ham Street access which show 100m to the west and 90m to the east. The submitted plan shows further improvement to visibility to the east by adjusting the hedge line. Whilst the current visibility splay falls short of what would normally be required in this speed limit, the traffic speeds are likely to be significantly slower than the speed limit due to the roads topography and being close to the 30mph speed limit entering the village.

Balancing the highway safety benefits of reducing the traffic utilising the Tillham entrance, and the proposed improvement to the Ham Street entrance, it is considered that the means of access as proposed from Ham Street to serve the dwellings is acceptable.

It is considered that there is adequate space within the site for parking and turning.

In summary the means of access and parking arrangements are considered to be acceptable and maintain highway safety standards. The proposal accords with Policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

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

The resulting dwellings will be set within a self contained plot separate to the original farmhouse plot. The relationship between the sites is acceptable.

An objection has been received from the neighbour closest to the Ham Street access where they claim the intensification of this use and the location of the refuse collection point will be detrimental to their amenity. At its closest point the track is approximately 25m to their boundary and at the access point onto the highway it is over 30m to their boundary, the bin store is even further away. It is considered that the given the distances involved the development proposed will not harm neighbour amenity.

Within the ownership of the applicant there is sufficient space to deliver amenity space for the dwellings proposed.

Given 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. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.



## **Impact on Ecology:**

A bat and bird scoping survey report dated March 2021 was submitted with the application. The building was assessed as having negligible bat roost potential. No signs of birds were identified in the building. This report is over two years old and a subsequent preliminary ecological appraisal report dated July 2023 was submitted which concluded similarly to the 2021 report. The report makes recommendations for ecological enhancement.

The site is located in an area that is hydrologically connected to the Somerset Levels and Moors Ramsar site and as such the proposal may have the potential to contribute to additional phosphate loading in the Ramsar site. However as the applicant has a legitimate fallback position by virtue of application 2022/1619/PAA there is no requirement under the Habitats Regulations to assess and mitigate for any phosphate arisings from the development.

It is considered that providing the recommendations of the submitted ecology report, in so far as it relates to the development proposed, are undertaken the proposed development will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

## **Land Drainage:**

A sustainable drainage system is proposed to deal with surface water and a package treatment plant is proposed for foul.

The site of the proposed development is within flood zone 1. As such, the proposed development is considered acceptable in terms of flood risk. It is considered that a suitable solution for drainage could be found within land that the applicant owns. As this will be covered by Building Regulations, it is considered unnecessary to impose conditions to secure these details.

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:**

A storage space for refuse bins has been provided within 15m of the highway which is considered acceptable.

## **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.

## **Conclusion and Planning Balance:**

Whilst this site is located outside the settlement limits, this site has the benefit of an extant approval to form four dwellings under LPA case ref: 2022/1619/PAA. The height, scale and massing of the proposed new dwellings is reflective of the approved scheme which proposed a conversion of the existing building. The new build development now proposed is considered acceptable and raises no new amenity, highway or ecological impact issues over and above the scheme already approved.

Having regard to paragraph 11 of the NPPF, given that the assessment of the application scheme has not identified any demonstrable harm and given the he fallback position as set out above the proposals are considered to be acceptable 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: 1839/001, 1839/002, 1839/003 Rev A, 1839/004 Rev A, 1839/010, 1839/011, 1839/020, 1839/021, 1839/030, 1839/031, 1839/040, 1839/041, 1839/042 all received 28.11.23, and drawing 1839/005 and Preliminary Ecological Appraisal Report by Nash Ecology dated July 2023 received 14.02.24.

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

3. **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 dwellings or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: The development is in a location where isolated new dwellings would not otherwise be permitted having regards to Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). As such any further extensions require detailed consideration by the Local Planning Authority in the interests of retaining the character of the open countryside having regards to Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Removal of Permitted Development Rights - No outbuildings (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 garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the rural character of countryside having regards to Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a

schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**6. Access, Parking and Turning Areas (Pre-occupation)**

No occupation shall commence until the access (from Ham Street only), parking, passing bay and bin store have been constructed in accordance with details shown on drawing numbers 1839/004 Rev A 1839/030 and 1839/005. The vehicular access, parking, passing bay and bin store shall thereafter be kept clear of obstruction and shall not be used other than for the access, parking and passing of vehicles and bin storage in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and passing areas and bin storage are provided and thereafter retained in the interests of amenity and highway safety in accordance with Development Policies 7, 9 and 10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**7. Implementation of Wildlife Scheme (Pre-occupation)**

The development hereby approved shall be carried out in accordance with the recommendations contained with the submitted Preliminary Ecological Appraisal Report produced by Nash Ecology dated July 2023 and no occupation shall commence until the ecological enhancements set out in paragraph 5.4 of that report have been installed within the application site.

Reason: To ensure that the implementation and success of the Wildlife Protection and Enhancement Scheme 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 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.

2. 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.
3. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
4. 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.

5. 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/>
  
6. Due to the nature of farms 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.
  
7. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed, and experienced ecologist at the earliest possible opportunity.