

Application Number	2023/2193/FUL
Case Officer	Jennifer Alvis
Site	Levels House Wells Road Bleadney Wells Somerset
Date Validated	19 December 2023
Applicant/ Organisation	S Harris
Application Type	Full Application
Proposal	Extension of curtilage with the change of use from agricultural land to domestic
Division	Mendip West Division
Parish	Wookey Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

### **What3Words -**

Access: [///clockwork.delay.charmingly](https://clockwork.delay.charmingly)

Land: [///backfired.trouble.laugh](https://backfired.trouble.laugh)

### **Ward Member/ Chair and Vice Chair Referral**

Referred to the Planning Committee (East) due to the application being a departure from the Local Plan, and the officer recommending approval.

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

The application site relates to a property known as Levels House, Wells Road, Bleadney. The host property is an existing detached dwellinghouse set within a semi-rural area with open agricultural land to the north, residential properties to the east and west, and Wells Road to the south. The site lies outside of any development limits and within the Somerset Levels and Moors Ramsar Risk Area. The last constraint is not relevant for this proposal as no physical development is proposed.

The proposal seeks a change of use on a section of land to the north of the main property from agricultural to residential in order to create a larger residential curtilage.

### **Relevant History:**

054419/012 - Change of use from hotel to residential use only - Approved - March 1989

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

Ward Member: No response

Parish Council: Seeks some further clarification on this application in order to provide comment.

- Why are five sworn affidavits that are nearly 10 years old provided for a full planning application as it is not an application for a certificate of lawfulness
- Draw to the planning officers attention a discrepancy on two of the affidavits which state the area of land in question has been used as a domestic garden since the 'early 1980's'. Yet the planning history shows that permission was not granted for change of use from a hotel to a domestic dwelling until March 1989?

Local Representations: No letters of local representation have been received

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)
- Mendip District Local Plan Part II: Strategy and Policies (December 2021) Post JR Version
- Somerset Waste Core Strategy

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 – Local Identity and Distinctiveness
- DP4 - Mendip Landscapes

- DP7 – Design and Amenity of New Development
- DP9 – Transport Impact of New Developments
- DP10 – Parking Standards
- DP23 – Flood Risk

**Other possible Relevant Considerations (without limitation):**

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- House Extension Design Guide

**Assessment of relevant issues:**

**Principle of the Use:**

The application relates to a small parcel of land that is directly adjacent to the existing residential curtilage of the host property and, although the site is outside development limits, the parcel of land in question is closely associated with the main house. While the site is outside developments, the proposal is for the extension of the existing residential curtilage which would be ancillary to an existing dwelling and not for an independent use. As such the development would not be considered to result in an increase in vehicle movements or other impact that would make this an unsustainable development.

In addition, supporting evidence has been provided with the application which demonstrates that the land has been in use as residential curtilage for in excess of 10 continuous years. While this is not an application for a Certificate of Lawfulness, this evidence can still be taken into account when making a determination for a change of use. While the affidavits submitted are dated from 2014 and, as pointed out by the parish council, some contain discrepancies in the dates of the former use, they still provide evidence that the land was in domestic use as residential curtilage for a continuous period from at least 1999-2014, and likely up until the present day.

Therefore, although the proposal for the change of use would not have policy support, and would be considered a departure from the Local Plan, the overall scheme is considered acceptable in terms of potential harm and the manner in which the new use will function in association with the existing dwelling.

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

The area of land has been used as domestic curtilage for a number of years without impacting on the rural character of the area. In addition, the land is largely used as a

tennis court which doesn't involve the construction of any tall structures which could impact on the landscape.

Given the above, it's considered that the proposal won't result in a significant detrimental impact on the character of the area and therefore complies with DP1, DP4 and DP7 of the Mendip Local Plan Part 1.

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

Given the limited building works proposed within the application, it's not considered the proposal would have a detrimental impact on neighbouring residential amenity.

Therefore, it's considered the siting of the proposed development 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, smell, 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.

### **Highway Safety:**

No alterations to the existing parking and access arrangements are proposed and as such the proposal maintains highway safety in accordance with policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

### **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.

### **Planning Balance & Conclusion:**

In terms of the change of use on part of an existing agricultural field, whilst it is acknowledged that the development will be outside development limits, it will abut an existing residential property (and will be restricted in terms of its future use). In addition, the change of use is retrospective and evidence has been provided which demonstrates that the land has been in use in its current form for in excess of 10 continuous years, and as such the use would be considered lawful.

On this basis the application scheme is considered to represent a sustainable form of development, and it is therefore recommended that planning permission be granted as a departure from the development plan.

From a procedural point of view if the recommendation is agreed the application will need to be advertised as a departure, and subject to no comments being raised that raise further considerations the decision notice confirming approval can then be issued.

## **Recommendation**

Approval

## **Conditions**

### **1. Retrospective Permission (Compliance)**

Notwithstanding the time limit given to implement planning permissions prescribed by Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), this permission, being a retrospective permission as prescribed by Section 63 of the 1990 Act, shall have been deemed to have been implemented on 19 December 2023

### **2. Plans List (Compliance)**

This decision relates to the following drawings: Existing Block Plan, 5986W-01  
Location Plan

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

### **3. Ancillary Use Only (Compliance)**

The change of use hereby approved shall not be used other than in connection with the residential dwelling referred to as Levels House and as shown on the location plan hereby submitted and approved.

Reason: In accordance with the proposals as submitted and given that there would be no policy support for a separate residential use or occupation on the site, and in

accordance with policies CP1, CP2 and CP4 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. 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.