

Application Number	2024/0056/FUL
Case Officer	Kelly Pritchard
Site	Park Farm Haydon Drove Haydon Wells Somerset
Date Validated	31 January 2024
Applicant/ Organisation	S Hill
Application Type	Full Application
Proposal	Conversion of barn to single dwelling (Part retrospective).
Division	Mendip Hills Division
Parish	St Cuthbert Out Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

### **What Three Words: prickly.chemistry.bordering**

#### **Referral to Committee**

In accordance with the scheme of delegation, this application was referred to Chair and Vice Chair. This is because the case officer recommendation is to refuse, the Parish Council recommends approval and Divisional Member did not submit a comment. The Chairman then requested that this application be considered by the Planning Committee.

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

This site is single storey agricultural barn at Park Farm, Haydon Drove, Haydon.

Park Farm and its land has been separated from the land to the north which is now used as a shooting ground leaving the original farmhouse, an old shop which has been converted into a one bed holiday apartment and a series of outbuildings and a Dutch barn in the small complex. There are work units north of the application site within the same ownership, but their current use is unclear, they appear to be a gym and a car valeting business.

The site is located outside the settlement limits as defined by Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP). It is located within the Area of Outstanding Natural Beauty (AONB), the Bat Consultation Zone (North Somerset Mendip Bats Special Area of Conservation) (band C), Bat Consultation Zone (Mells Valley Bats Special Area of Conservation) (Band C) a Site of Special Scientific Interest Impact Risk Zone and it is within the Somerset Levels and Moors Ramsar Risk Area.

The application seeks full planning permission for the conversion and extension of barn to dwelling (part retrospective).

The plans submitted with this application include a drawing showing the floor plan and elevations as existing and proposed plans which show the addition of a new dormer window and a single storey extension to the rear (west elevation), a staircase giving access to a new mezzanine level for the main bedroom and new windows to the east and south elevations. The walls will be finished in natural stone with a clay tiled roof and timber windows and doors.

It is proposed that foul drainage from the site will be dealt with by an existing septic tank.

The submitted Design and Access Statement states;

*“The barn, the subject of the application has been re-roofed and made structure safe under the guidance of a local structural engineer, who has also advised on the existing stone walls.”*

When an application is submitted retrospectively it is not always possible to compare the original design and characteristics of the existing building to the proposed development, even if existing drawings have been submitted.

To inform this part of the assessment of the current application in 2020 (ref: 2020/1853/FUL) the applicant proposed the conversion of the Dutch barn, which is located directly adjacent to the building to which this application relates to into a dwelling and there are photographs of the building covered by this application on that application case file. These photos show part of the roof of the building now being considered under the current application in the background where the roof is much lower than the existing drawings now submitted, as reproduced below. The roof of the building which is subject to this current application is seen behind the blue shipping container in these pictures.





A site visit was undertaken in February 2024 as part of the assessment of this current application, and the inspection of the works undertaken and for which planning permission is now sort were reflective of a new build rather than a conversion. The building has a new roof which appears to be higher than it was historically, it has new blockwork, floors and steels, in addition to the extension of the footprint and new dormer window.

The applicant has not provided any supporting information about the history of the building, a structural survey, an ecological appraisal or any information demonstrating that the development will be phosphate neutral.

It will be set out within this report that the development does not comply with Policy DP22

(Reuse and Conversion of Rural Buildings) and is therefore an unjustified new dwelling in an unsustainable location remote from services and facilities within the countryside.

Furthermore, the presumption in favour of sustainable development (paragraph 11 d) of the NPPF does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects).

### **Relevant History:**

ENF/2023/0395

- 2013/1089 – conversion and use of shop into either a shop or holiday cottage. Approval. 08.11.13 (this is a building to the south west of the proposed development)
- 2019/3077/HSE - Erection of a side two storey extension. Approval. 11.02.20 (this is a building to the south west of the proposed development)
- 2020/1853/FUL – Conversion of three bay Dutch barn and lean to into a dwelling. Withdrawn. 22.03.21 (this was to the east of the development proposed).

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

Divisional Member: No comments received.

St Cuthbert Out Parish Council: Approval.

Environmental Protection: No objection.

Ecology: Although ecology have been consulted, no comments received but this is likely because no ecological information has been submitted with the application.

Local Representations:

No other representations have been made.

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)
- DP22 (Reuse and Conversion of Rural Buildings)
- 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 services and facilities, where development is strictly controlled. Policies CP1 and CP2 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 (DP) 12 (Rural Exception Site), 13 (Accommodation for Rural Workers), and 22 (Reuse and Conversion of Rural Buildings for residential use).

The application has not been submitted on the basis of Policies DP12, DP13 nor has it provided adequate evidence to suggest compliance with these policies, as such are not considered to apply here.

The (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 reduced 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.

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. As will be discussed later in this report, there is a lack of information to determine what effect the proposal would have on the Somerset Levels and Moors Ramsar natural habitat in terms of phosphate loading. As such, a precautionary approach is required, and it is not possible to conclude that the proposal would constitute sustainable development, as per paragraph 11 of the NPPF.

Paragraph 84 of the NPPF, is supportive of schemes for the conversion of rural buildings to residential uses where it will lead to the enhancement of the immediate setting. The proposal has been submitted as a barn conversion as such the Local Planning Authority (LPA) is considering it under policy DP22.

Development Policy 22 (DP22) mentioned above as an exception policy, states that the

reuse and conversion of a redundant or disused rural buildings in the countryside (outside of defined development limits) for residential use will be given favourable consideration where it would lead to an enhancement to the immediate setting, and lists a number of criteria that the development would need to comply with, including:

- d) the building is of permanent and substantially sound construction and is proposed for re-use and adaption in a manner which would not require major or complete reconstruction
- e) any bat roost present is incorporated or replaced, and external vegetative structure supporting is maintained or replaced within the scheme.

No structural survey has been provided to demonstrate the building is capable of conversion without complete reconstruction.

On the basis of the information submitted it is not considered that the application scheme could be supported by policy DP22.

Therefore the application scheme has been assessed as an unjustified dwelling in the countryside in a remote location and poor accessibility and connectivity to local services and facilities and would foster growth in the need to travel by private vehicle. Please refer to the planning balance assessment at the conclusion section of this report.

### **Ecology:**

The site is within a Site of Special Scientific Interest Impact Risk Zone, and a Bat Consultation Zone. It is also within the Somerset Levels and Moors Special Area of Protection Ramsar Risk Area.

DP5 states that all development proposals must ensure the protection, conservation and, where possible, enhancements of internationally, nationally or locally designated natural habitat areas and species. It goes on to say that proposals with the potential to cause adverse impacts on protected species or habitats are unlikely to be sustainable and will be resisted. Exceptions will only be made where offsetting or compensation can be secured.

DP6, relating to bat protection, states,

Planning applications for development on sites within the Bat Consultation Zone will require a 'test of significance' under the Habitats Regulations to be carried out.

Applicants must provide, with their application, all necessary information to enable compliance with the Habitats Regulations (or their successor), including any necessary survey work, reports and avoidance/mitigation measures.

No ecological survey of the building and/or the area affected by the application scheme has been provided and given the site is in a sensitive location for bats it must be assumed that the presence of light adverse species is in existence within the locale.

The applicant has not carried out the necessary surveys to assess the presence of protected species or how any species would be protected within the building. Therefore, the impacts of the development cannot be adequately assessed with regards to protection, conservation and, where possible, enhancement of internationally, nationally or locally designated natural habitat areas and species. As the development is partly retrospective any protected species that may have been present will have been disturbed, but policy also seeks enhancement via biodiversity net gain. No enhancements have been provided.

As such the development is considered to be contrary to Policy DP5 and DP6.

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. 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 foul water discharge. As the designated site is in 'unfavorable' 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.

It is considered that the applicant would need to demonstrate that the proposed development is phosphate neutral, and no such information has been provided.

Therefore, insufficient information has been submitted to assess whether the proposal would result in an unacceptable increase in phosphate levels within the foul water discharge affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site and as such fails Regulation 63 of the Habitat Regulations 2017. Furthermore, the development therefore conflicts with Policies DP5 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).and Part 15 of the National Planning Policy Framework.

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



It is recognised that there are some noise generating uses close to where the development is proposed however, when considering the relationship of a dwelling to those uses there is an element of buyer beware. When planning permission was given for the indoor shoot, consideration would have been given to the existing uses including the existing residential uses and as such suitable conditions would have been imposed so as not to impact negatively. Most of the other uses within the immediate setting of this complex of buildings are within applicant's ownership. Environmental Protection have not objected.

Having regard to these factors it is considered that the amenity of the future occupiers and the impact on neighbouring amenity will not be significant.

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.

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

Access from the highway is via a shared drive with the shooting ground and other uses. There is no allocated parking shown for the proposed house other than a statement in the Design and Access Statement to say that the site has a large parking area large enough to park cars. There are no proposal to change the access or parking for the site.

It is considered that the addition of one extra dwelling utilising the site would not prejudice highway safety, and there would be adequate room within the site for the provision of parking.

Notwithstanding this as discussed earlier in the report the development is considered to be in an unsustainable location and would therefore foster growth in the need to travel.

#### **Area of Outstanding Natural Beauty:**

The application site is within the AONB but given its siting in the context of other buildings it is unlikely to compromise the character of this sensitive designation.

The proposed development by virtue of its design, scale, massing, position and use of external materials would not adversely affect the natural beauty of the landscape of the designated AONB in accordance with Policy DP4 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

## **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:**

The proposal goes beyond the allowances which could be achieved as a barn conversion supported by policy DP22. Furthermore, there are no special circumstances to justify what would amount to a new-build dwelling in the countryside in an area with limited services resulting in a dwelling in an unsustainable location contrary to policies CP1, CP2 and CP4 of MDLP and advice contained with paragraphs 84 and 188 of the NPPF.

In the absence of a suitable ecological survey with regards to the site or any proposed ecological mitigation or enhancement, it is considered that the application fails to adequately demonstrate that protected species or their habitat can be safeguarded or enhanced contrary to Policies DP5 and DP6 of MDLP and Part 15 and paragraph 188 of the National Planning Policy Framework.

The proposed development has the potential to adversely affect the integrity of the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in an area where they are already excessive. In the absence of sufficient technical information evidencing the level of phosphates generated by the development, and sufficient mitigation measures, if any, to demonstrate that phosphate neutrality can be achieved, the LPA is unable to carry out an Appropriate Assessment to conclude beyond all reasonable scientific doubt that the proposed development would not have an adverse effect on the integrity of the Ramsar.

Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the Ramsar site, subject to the exceptional tests set out in Regulation 64. As it cannot be ascertained that the proposal will not adversely

affect the integrity of the Ramsar site, and as the exceptional tests in Regulation 64 do not apply, the LPA cannot permit the proposal. It is therefore not in accordance with Policies DP5 and DP8 of MDLP and paragraph 188 and Part 15 of the National Planning Policy Framework.

In summary there is no policy support in the development plan or from the NPPF and the application is recommended for refusal for the reasons as set out above with regards to acceptability of the principle of the application scheme, given that the limited benefits in housing supply terms of one additional unit in an unsustainable location is not considered to be significant and/or demonstrably outweigh the very limited benefits.

## **Recommendation**

### Refusal

1. The application site is in rural location in the open countryside where new development is strictly controlled in the interest of maintaining the rural character and appearance of the area. The planning application has been submitted part retrospectively and based on the information submitted the development as proposed is considered to represent a new building rather than a conversion that could be supported by DP22. Furthermore the application scheme does not represent sustainable development by virtue of its remote location and poor accessibility and connectivity to local services and facilities and would foster growth in the need to travel by private vehicle. The limited benefits in terms additional housing supply and the limited economic benefits for the wider community do not in this case outweigh the harm identified. The proposal is therefore considered to be contrary to the provisions of Policy CP1, CP2, CP4, DP1, and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014) and the National Planning Policy Framework (Paragraphs 11d, 84 and 188).
2. The site and building is located within the Bat Consultation Zone (North Somerset Mendip Bats Special Area of Conservation) (band C), Bat Consultation Zone (Mells Valley Bats Special Area of Conservation) (Band C). The applicant has not carried out the necessary surveys to assess the presence of protected species or how any species would be protected within the building, nor have they provided any ecological mitigation or enhancements. Therefore, the impacts of the development cannot be adequately assessed with regards to protection and/or enhancement of natural habitat areas and species. As such the development is considered to be contrary to Policy DP5 and DP6 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Part 15 and paragraph 188 of the National Planning Policy Framework.

3. The proposed development has the potential to adversely affect the integrity of the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in an area where they are already excessive. In the absence of sufficient technical information evidencing the level of phosphates generated by the development, and sufficient mitigation measures, if any, to demonstrate that phosphate neutrality can be achieved, the Local Planning Authority is unable to carry out an Appropriate Assessment to conclude beyond all reasonable scientific doubt that the proposed development would not have an adverse effect on the integrity of the Ramsar. Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the Ramsar site, subject to the exceptional tests set out in Regulation 64. As it cannot be ascertained that the proposal will not adversely affect the integrity of the Ramsar site, and as the exceptional tests in Regulation 64 do not apply, the Local Planning Authority cannot permit the proposal. The proposal is therefore not in accordance with Policies DP5 and DP8 of Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and paragraph 188 and Part 15 of the National Planning Policy Framework as there is the potential for the proposed development to result in adverse effects on the Somerset Level and Moors Ramsar site.

## **Informatives**

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The submitted application has been found to be unacceptable for the stated reasons and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.
2. This decision relates to Existing Floor and Elevations Plan received 12.01.24 and Proposed Floor and Elevations Plan, Block and Location Plan received 31.01.24.