

Application Number	2022/2509/FUL
Case Officer	Lorna Elstob
Site	Land at The Orchard Vicarage Lane Norton St Philip Bath Somerset
Date Validated	17 January 2023
Applicant/ Organisation	C Wharton
Application Type	Full Application
Proposal	Change of use of agricultural to Use Class C3 Residential. Erection of 1no. single storey dwellinghouse.
Division	Frome North Division
Parish	Norton St Philip Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Adam Boyden Cllr Dawn Denton

What three words: shunning.yappy.airbag

Reason for referral back to Planning Committee

Whilst this application was debated at planning committee on 7th May it has become apparent that the letters notifying interest parties that the application would be heard at planning committee wrongly advised that it would be held at the July meeting. To enable those parties an opportunity to register to speak against the item and for members to consider any such representations, the application is being brought back to Committee.

Scheme of Delegation:

The application is referred to the Planning Committee as per the scheme of delegation as the applicant is a relative of a member of staff.

It should also be noted that the officer recommendation is contrary to that of the Parish Council. Although it is noted that the parish council stated it is the LPA's role to determine whether the proposal satisfies the criteria in DP24.

Description of Site, Proposal, and Constraints:

This application relates to a parcel of land located outside of the development limits of Norton St Philip. The land is currently a small holding including fruit and vegetable

growing and animals. The other part of the land (outside of the red line) is an orchard which is identified as a priority habitat. The site is also within a bat consultation zone.

The site is accessed via an unclassified and unconsolidated lane called Vicarage Lane.

The proposal is for the change of use of agricultural to Use Class C3 - residential and erection of 1no. single storey dwellinghouse.

Relevant History:

2022/1394/FUL – Change of use of Agricultural Land to Class C3 Residential and erection of 1no. single storey dwellinghouse. Withdrawn 28.09.22

Summary of Division Member comments, Parish Council comments, representations, and consultee comments:

Division Member: No comments received.

Norton St Philip Parish Council: The PC recognises that it is the LPA's role to determine whether the proposal satisfies the criteria in DP24. Subject to the LPA concluding that the criteria have been met, and a condition imposed ensuring the dwelling remains affordable in perpetuity, the PC **supports** the application.

Highways Development Officer: Standing advice applies.

Land Drainage: Objected, requesting additional information. Updated information has been provided but no new comments have been made.

Local Representations:

3 letters of objection have been received raising the following planning issues:

- Lack of compliance with DP24
- Location away from settlement
- Access
- Drainage
- Bin collection

16 letters of support have been received raising the following planning issues:

- Provision of a family home
- Sustainability

Full details of all consultation responses can be found on the Council's website <https://publicaccess.mendip.gov.uk/online-applications/>

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) (post JR version)

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

- CP1: Spatial Strategy
- CP2: Housing
- DP1: Local Identity and Distinctiveness
- 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

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

- DP24: Single-plot Exception Sites for Self & Custom-Build

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Supplementary Planning Document Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (March 2022)

- Policy DP24 Supplementary Planning Document - Self and Custom-build Single-plot exception sites in Mendip (March 2022)

Assessment of relevant issues:

Principle of the 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). This application site is however outside of the Development Limits where CP1 states that any proposed development will be strictly controlled and will only be permitted where it benefits economic activity or extends the range of facilities available to the local communities.

Core Policy 2 (CP2) of the Local Plan states that the delivery of new housing will be secured from three sources (a) Infill, conversions and redevelopments within Development Limits defined on the Proposals Map, (b) Strategic Sites identified on the Key Diagrams for each town associated with Core Policies 6-10 and (c) other allocations of land for housing and, where appropriate, mixed-use development, outside of Development Limits through the Site Allocations process. The creation of a dwelling as indicated would not accord with the requirements of CP2 and the strategy for the delivery of housing.

Policy DP24 of Mendip District Local Plan Part II: Sites and Policies (December 2021) (post JR version) relates to Single-plot exception sites for self and custom build. This is supported by an SPD. The policy details that as an exception to normal policy for the provision of housing (CP1 and CP2), permission may be granted for single affordable self build and custom build dwellings in locations adjoining rural settlements where they meet the necessary criteria.

The proposal is tested against the criteria of DP24 as follows:

Eligibility

Applicants must demonstrate that they are in housing need and are unable to identify or afford a suitable alternative home currently for sale on the open market in the local area or within 5km of the proposed site. Applicants must also demonstrate a strong local connection to the settlement.

The applicant has provided suitable evidence to confirm their compliance with this criteria. However, it should be noted that the applicants do not own the land on which the application has been submitted.

Location

Exception sites must be part of, or adjacent to, a recognisable named settlement.

The site is not located within or adjacent to a recognised settlement. The site is located approximately 100m from Norton St Philip development limit.

Design and Scale

The dwelling size will not normally be permitted to exceed 140 square metres gross internal floor space or occupy a plot of more than 0.1ha. Development must be in harmony with the character of the area, of a suitable design which is appropriate to its location.

The proposed dwelling has a floor space of approx. 156.5m².

The plot occupies approx. 0.25 hectares.

The size of the proposed dwelling and the site (as indicated by the red line) are both in excess of the policy specifications and no justification has been provided for this.

The design of the dwelling focuses on the sustainability of the building and therefore bears little resemblance to any other property or building in the locality. Norton St Philip has many historic buildings, many of which are constructed of local stone. The proposed dwelling uses local stone and larch cladding to acknowledge the materials used in the locality.

Future Occupation

To ensure community benefit going forward, appropriate mechanisms must be in place to ensure dwellings remain affordable in perpetuity.

This would need to be secured by an S106 agreement signed by both the applicants and the land owners. Noting the applicants are not the land owners

Conclusion against DP24

Taking the above points into consideration the proposal fails to comply with DP24 as the site is not part of, or adjacent to the nearest recognisable settlement (Norton St Philip).

Additionally the gross internal floor space and plot area exceeds the limitations set out in the policy and the design is not in harmony with the character of the area, or of a suitable design which is appropriate to its location.

The Local Planning Authority (LPA) is not currently able to demonstrate a five-year supply of housing land. This means that policies in the Local Plan that are related to the delivery of housing, Core Policy 1 (CP1) and Core Policy 2 (CP2), can only be given reduced weight. As a consequence of not being able to demonstrate a five-year supply, the 'presumption in

favour of sustainable development' as set out in paragraph 11(d) of the National Planning Policy Framework (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 policies taken as a whole or where its specific policies indicate that development should be restricted.

In this case given the proposal is contrary to DP24, it would be contrary to Council's Spatial Strategy for the distribution of housing as set out in CP1 and CP2 and would result in an isolated dwelling in an unsustainable location. As a scheme for just one dwelling, the benefits of the proposal are not considered to outweigh the harm caused by this conflict against the development plan and the other harms assessed below. The principle of development is therefore considered unacceptable.

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.

The building is designed to maximise the sustainability and facilitate an "off grid" lifestyle. Whilst doing so the design fails to adequately recognise or acknowledge the traditional building designs within the locality. The fenestrations are unusually arranged on the building. However the materials proposed are similar to those seen within the main village in that they include local stone and slate.

The creation of a dwelling in this rural location in such a large plot would create significant encroachment of domestic planting and paraphernalia directly adjacent to farmland which would have a detrimental impact on the openness of the countryside.

The proposal by reason of its design, siting and scale fails to respond to the local context and fails to maintain the character and appearance of the surrounding area. The proposal therefore fails to accord with Development Policies 1 and 7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Impact on Neighbouring and Residential Amenity:

The proposed dwelling is in an isolated location and therefore there is unlikely to be any impact on nearby properties.

The proposed dwelling is on a parcel of land which is adjacent to an existing orchard, which is a priority habitat. There is a track that runs through the site and onwards into the orchard. The creation of a dwelling in the front section of the site could have a detrimental impact on the management and maintenance of the orchard. It is noted that the parcel of land subject to the application and the orchard are both within the same ownership, neither part is within the ownership of the applicant.

Given the design, scale, massing, and 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, odour, traffic, or other disturbance. 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:

The site is located within a bat consultation zone and also within and adjacent to a priority habitat. A preliminary ecological assessment has been undertaken on the site and confirms there are no protected species present. Although it is noted that the site is a foraging route for several species of bats.

The report includes recommendations with regards to lighting and protection of hedgerows.

If the application was otherwise considered acceptable, conditions could be imposed to ensure the proposed development would not have an adverse impact on bats or other ecology. The proposal accords with Development Policies 5 and 6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Assessment of Highway Issues:

There are no proposed changes to the access for the site. Given the existing use, it is not considered that the proposal would result in a significant increase in traffic movements that would be prejudicial to highway safety.

The application states that the first 55m of the track have sufficient width for 2 cars to pass (no reference is made to larger vehicles). The next 60m of the lane is single width

with no consolidated surface and has no passing places and no clear line of site between the start and finish. The final section is 137m long with no passing places however it does have a clear line of site from start to finish.

Objections have been received with regards to the access track and the lack of consolidated material and the previous history of the lane flooding. The applicants have said that as they currently regularly access the site they do not believe that there will be a significant intensification of vehicles using the access track. No reference or quantification has been submitted with regards to the consideration of the additional vehicle movements associated with a domestic property that are not necessarily undertaken by the residents such as delivery vehicles.

The proposal includes the provision of 2 parking spaces. SCC Parking Standards requires 3 parking spaces for a 3-bedroom dwelling in this location. In addition, the proposal includes turning space, in accordance with Standing Advice, to allow vehicles to enter and leave the site in forward gear.

No details have been submitted with regards to the proposed layout of the parking area or the turning area which the applicant has stated they plan to provide. If the application was otherwise considered acceptable, conditions could be imposed to secure sufficient parking and turning, including EV charging details, by conditions.

Given the fallback of the existing situation and potential for conditions, the means of access and parking arrangements are considered acceptable and to maintain highway safety standards. However due to its remoteness, without adequate justification, the site is considered unsustainable and would foster a growth in the need to travel by car contrary to policy DP9 of the adopted Local Plan Part 1 (2014).

Trees:

The proposed development will not have an adverse impact on a tree which has significant visual or amenity value. The proposal accords with Development Policies 1 and 4 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Land Drainage:

The NPPF, paragraph 167, states that when determining any planning applications, LPAs should ensure that flood risk is not increased elsewhere.

Development Policy 8 (DP8) states that *“all development proposals should minimise, and where possible reduce all emissions and other forms of pollution”*. Point 1 of DP8 states *“Development (either cumulatively or individually) will be required to demonstrate that it*

does not give rise to unacceptable adverse environmental impacts on [amongst other things]

- *the quality of water resources, whether surface river or groundwater [and]*
- *public health and safety”.*

Development Policy 23 (DP23) states that *“all developments will [also] be expected to incorporate appropriate water management measures to reduce surface water run-off and ensure that it does not increase flood risks elsewhere. This should include the use of sustainable urban drainage systems (SUDS)”.*

Due to known issues with local ground conditions the drainage engineer asked for site specific calculations to be undertaken and an assessment of the proposal for surface water run off to be submitted. Both of these have been undertaken and submitted. No further comments have been received from the drainage engineer. From the information now submitted it appears that a suitable drainage system can be designed and installed within the site.

The proposed development will not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Development Policies 8 and 23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Refuse Collection:

No details have been provided with regards to the proposed location for storage of waste or recycling on the site. Although it is clear that there is sufficient space, concerns have been raised by neighbours with regards to the proposed location of the refuse / waste collection point being outside of the ownership and therefore control of the applicants. From comments received it would appear that the proposed collection point for waste and recycling is within private ownership and would therefore not be acceptable.

If the application was recommended for approval such details and arrangements would need to be submitted to and agreed by the Council in consultation with Somerset Waste Partnership.

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/ Planning Balance:

The proposal has been submitted as a self build application requiring consideration under DP24. The application fails to meet the criteria of this policy, as explained within the report above. Accordingly it does not represent an exception to the Council's Spatial Strategy for the distribution of housing as set out in CP1 and CP2. As a single dwelling in an isolated location it fails policies CP1 and CP2.

The Council cannot currently demonstrate a 5-year supply of deliverable housing sites so, in these circumstances, Paragraph 11 of the NPPF applies in that there is a presumption in favour of sustainable development and that therefore planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In this case there would be some benefit from the proposals by adding a single dwelling house to the housing supply. There would also be some economic and social benefits arising from the construction of the dwelling as well as economic benefit derived from the future occupants for the wider area as well as revenue for the Council.

Conversely, the provision of a dwelling on this site, isolated from the nearest village would foster a growth in the need to travel by private car, thus leading to an unsustainable development. As the design and scale fails to reflect the local character and policy requirements, the proposal would fail to contribute positively to the maintenance and enhancement of local identity and distinctiveness and result in unjustified encroachment into the open countryside that would have a significant harmful impact on the rural character of the area and wider landscape. The proposal is therefore considered to be contrary to Policy DP1, DP4 and DP7 in addition to CP1, CP2 and DP24 of the Local Plan and the NPPF.

These are considered to be significant and demonstrable harms that outweigh the comparatively limited benefit arising from the supply of just one dwelling.

Recommendation

Refusal

1. The proposal has been submitted as a self-build application requiring consideration under DP24, yet the application fails to meet the criteria of this policy as the site is not part of, or adjacent to the nearest recognisable settlement; the scale of the development (gross internal floor space and plot area) exceeds the limitations set out in the policy and the design is not in harmony with the character of the area, or of a suitable design which is appropriate to its location. Accordingly, the proposal would result in an isolated rural dwelling in the countryside where development is strictly controlled and does not represent an exception to the Council's Spatial Strategy for the distribution of housing as set out in CP1 and CP2. It would therefore lead to unjustified encroachment into the countryside and represent unsustainable development by virtue of its distance and poor accessibility and connectivity to local services and facilities, thus fostering a growth in the need to travel by private vehicle. The proposal is therefore considered to be contrary to the provisions of Policies CP1, CP2, CP4 and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014); DP24 (Single-plot Exception Sites for Self and Custom-Build) of Mendip District Local Plan Part II: Sites and Policies (December 2021) (post JR version); and the National Planning Policy Framework, to include paragraphs 11 and 12 and Chapters 5 and 9, and National Planning Practice Guidance.
2. The design and scale of the development fails to reflect the character of the area and thus fails to contribute positively to the maintenance and enhancement of local identity and distinctiveness. Together with the concerns with the siting in an isolated location and failure to meet the tests in terms of the principle of development, it would result in unjustified encroachment into the open countryside that would have a significant harmful impact on the rural character of the area and wider landscape. The proposal is therefore considered to be contrary to the provisions of Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014); and the National Planning Policy Framework, to include paragraphs 11 and 12 and Chapter 12, and National Planning Practice Guidance.

Informatives

1. This decision relates to drawings:
TQRQM22209134956639 - Existing Site Plan
TQRQM22164154413381 - Location Plan
TQRQM22209134956639 - Proposed Site Plan
Elevations

GENERAL ARRANGEMENT
ROOF DRAWINGS