

Application Number	2024/0002/FUL
Case Officer	Kelly Pritchard
Site	Land At Emborough Farm Roemead Road Binegar Radstock Somerset
Date Validated	15 January 2024
Applicant/	P Blatchford
Organisation	Emborough Farm
Application Type	Full Application
Proposal	Change of use of agricultural land to a secure fenced dog exercise area.
Division	Mendip Hills Division
Parish	St Cuthbert Out Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

Referral to Chair and Vice-Chair:

In accordance with the scheme of delegation, this application is referred to the Chair and Vice-Chair of the Planning Committee as the case officer recommendation is to refuse, the Parish Council recommended approval and the Divisional Member did not submit a comment.

Description of Site, Proposal and Constraints:

The application relates to Emborough Farm, Roemead Road, Binegar.

The site is located outside defined development limits and has an existing vehicular access to the highway, the B3135, which is opposite a small industrial estate.

The application site is also within the Bat Consultation Zone (Mells Valley Bats Special Area of Conservation) (Band C), Site of Special Scientific Interest Impact Risk Zone and it is also located within the Somerset Levels and Moors Ramsar Risk Area. It is also located within the Gas Pipeline Interest Zone.

The application seeks full planning permission for the change of use of agricultural land to a secure fenced dog exercise area. The site area comprises of approximately 1.2h agricultural land.

The submitted supporting statement says that the money from the dog exercise area will subsidise future uses on the site including a classroom on the farm.

It is proposed to open the area no earlier than 7am and no later than 10pm during daylight hours. No outside lighting is proposed. Users will book online and sessions will be 50 minutes with a 10 minute change over period. A maximum of two cars will be allowed on site and the applicant claims this can be achieved by restricting the number of dogs per session. CCTV cameras may also be in operation. A shelter is also proposed which measures 4.8m x 2.4m and 3m high, it will be timber with fibre cement roof. A dog waste collection bin will be provided, however, no plans have been submitted to demonstrate where on the site the building, bin or the fencing and gates will be positioned.

The statement submitted with the application says a 1.9m high fence will surround the dog walking area and it will have braced gates.

Relevant History:

- 2022/2125/AGB - Application for prior notification of agricultural development for a proposed building - Agricultural barn. Prior Approval Not Required. 16.11.22
- 2022/2150/AGB - Application for prior notification of agricultural development for a proposed building - Agricultural barn. Prior Approval Not Required. 16.11.22
- 2023/1884/FUL - Erection of a temporary agricultural workers dwelling. Approved 20.03.24
- 2024/0195/FUL - Erection of 2no. goose houses and 1no. field shelter for alpacas. (part retrospective). Approved. 08.04.24

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

Divisional Member: No comments received.

St Cuthbert Out Parish Council: Approval.

Highways Development Officer: Objection.

- Based on the level and detail of the information provided at this time the Highway Authority has no choice other than to recommend refusal.
- The visibility splay drawing submitted are not sufficient and we have concerns that the visibility splay to the south east will cross land that is not within the applicants control, or within highway land.
- Limited information regarding parking and turning has been provided.

- The principle of a dog walking area, based on the level of use detailed within the application would not cause significant highway concerns, however the visibility splays need to be confirmed. However, the submitted documents mention future uses of the site, including retail, catering and education. These uses would need further consideration.

Environmental Protection: No objection.

Local Representations:

We have received four objections and three representations in support, their comments are summarised below.

- There are currently few fenced spaces where dogs can be exercised off lead safely.
- In keeping with other businesses across the road.
- This will support existing businesses.

- It will negatively impact on my business opposite due to noise including barking, traffic etc.
- Highway safety concerns including people crossing the main road and increase in traffic. – *Officer note to this comment is that this is not material for this application as the proposal shows that there is a parking area within the application site and it cannot be assumed that people will cross the road to use other facilities.*
- This area is known for Adders and this will pose a threat to dogs.
- Negative impact on ecology.
- Conflict with existing livestock at the site.
- There are already other dog walking facilities available.

Full details of all consultation responses can be found on the Council's website www.somerset.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations 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) (MDLP)

- 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)
- CP3 (Supporting Business Development and Growth)
- 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:

Planning permission has recently been granted for the erection of a temporary agricultural workers dwelling for the applicant under reference 2023/1884/FUL along with some minor agricultural buildings, reference 2024/0195/FUL.

This site is in open countryside outside any development limits. It comprises of approximately 1.2h agricultural land and the proposal is to change the use to a dog exercise area.

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 to towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). The local plan’s emphasis is on reusing previously developed land within existing settlement limits. It also says that development in the open countryside will be strictly controlled but may exceptionally be permitted in line with the provisions set out in Core Policy 4 (CP4) (Sustaining Rural Communities).

Core Policy 3 (CP3) of the adopted “Mendip District Local Plan - Part 1” says that proposals for economic development will be supported where they accord with CP1, and encourage a diverse, robust, thriving and resilient local economy.

CP4 (4b) supports development of the rural economy as set out in CP3 which enable the expansion of businesses in a manner and of a scale which are appropriate to the location and the constraints upon it.

The location of the site is remote, on an agricultural farm and the pattern of the use proposed is not what would normally be expected in the countryside nor is the proposed use related to agriculture. Given its location most users of the proposed enterprise will drive to the site from outlying areas. There are a handful of small businesses on land opposite the site which include a dog groomer, but there is little evidence to support the notion that the users of these businesses will utilise the dog exercise area or visa versa. It is considered that the application site is located in an unsuitable location and the proposal would unjustifiably foster the growth in the need to travel by private car.

The principle of development is unacceptable as the site lies in the countryside outside the development limits where development is strictly controlled. The proposal does not represent sustainable development and there is no policy support for it.

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

It is unclear from the submitted drawings where the proposed shelter or bin will be located on site or the extent of the area of land where the fence will be located or whether the shelter is totally enclosed on all sides. Should members conclude that the principle of the development is acceptable, these details could be controlled by condition.

This is a commercial business that results in customers with dogs arriving and exiting the site at regular intervals during the day. The nature of vehicle use at this site would be distinctly different from the intermittent or seasonal traffic associated with farm vehicles. The presence of parked cars and the regularity of this activity would alter the agricultural character of this site. In addition, the boundary fence at a height of 1.9m with galvanised gates would be out of keeping in this rural area where boundary treatments are largely

limited to hedges or low stock fencing. As such the proposal is considered to be harmful to the character and appearance of the area contrary to Policies DP1, DP4 and DP7 of MDLP.

Impact on Residential Amenity:

There will be dogs barking and owners calling and no noise survey has been conducted. However, a busy main road bounds the site and consequently nearby properties located on the opposite side of the road will already experience day to day road noise. It is considered that barking and shouts arising from the site would be experienced in the context of that background noise.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of 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:

It is understood from the statement submitted with the application that the fence will be installed 4m in from existing hedges. No external lighting is proposed as such it is considered that 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.

Assessment of Highway Issues:

The comments of the Highway Authority are noted, however members considered that the access was adequate as part of the previous planning application recently approved at this site under reference, 2023/1884/FUL. The plans indicate that on site parking and turning will be available. When considering the scope of the proposed enterprise it is considered that the intensification of use of the existing access will not be excessive and as such the access is considered acceptable.

Notwithstanding this, Policy DP9 of the local plan, and the NPPF seek to promote sustainable transport options, such as walking, cycling or public transport. Policy CP3 supports economic development where it limits the growth in demand for private transport. The site is remote and public transport options are limited and even if it was available given the nature of the proposed use it is unlikely that people would utilise it. As such the proposal would unjustifiably foster the growth in the need to travel by private car and does not represent sustainable development.

The development does not therefore comply with policies DP9 or CP1,CP3 and CP4.

Other:

The Health and Safety Executive are a statutory consultee but have not been consulted on this application. They would need to be consulted should the development involve ground disturbance.

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:

The principle of development is unacceptable as the site lies in the countryside outside the development limits where development is strictly controlled. The proposal does not represent sustainable development and it would unjustifiably foster the growth in the need to travel by private car. In addition the proposal is considered to be harmful to the character and appearance of the rural area.

Recommendation

Refusal

1. The proposed development lies in the countryside outside defined development limits where development is strictly controlled. The site's distance and poor accessibility and connectivity to local services and facilities and the nature of the proposed development would foster growth in the need to travel by private vehicle and is therefore unacceptable in principle. The proposal is therefore contrary to the provisions of Policies CP1, CP3, CP4 and DP9 of the Mendip District Local Plan Part

- 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), the National Planning Policy Framework and Planning Practice Guidance.
2. The development proposed by reason of the siting, scale and design of the fence/gate enclosure and the presence of parked cars and the regularity of this activity would be detrimental to the character and appearance of the rural area. The proposal is therefore 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), the National Planning Policy Framework and Planning Practice Guidance.

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 Visibility Splay North West and South East Drawing received 25.01.24, Visibility Splay drawing 120124-1 and Dog Shelter Drawing 130124-1 received 15.01.24, Existing Entrance Plan drawing 270823-1, Existing Site Location Plan drawing 030923-1 and Proposed Fencing drawing 030124-1 received 03.01.24 and ownership location plan received 01.01.24.