

Application Number	2024/0291/FUL
Case Officer	Carlton Langford
Site	Land At 363906 149818 Stockhill Chilcompton Radstock Somerset
Date Validated	14 February 2024
Applicant/ Organisation	C/O Agent
Application Type	Full Application
Proposal	Construction of new agricultural barn, access improvements and associated works.
Division	Mendip Hills Division
Parish	Chilcompton Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

Referral to Ward Member/Chair and Vice Chair:

This application has been referred as the Case Officer's recommendation to approve differs from that of the Parish Council and 17 local objectors.

Description of Site, Proposal and Constraints:

This application relates to 3Ha of agricultural land within the open countryside and within the Parish of Chilcompton. The site is located within a Bat Consultation Zone, an Area of Archaeological Importance, an area with historic Coal mining activity and a minerals consultation area.

This application seeks full planning permission for the erection of an agricultural building with improvements to the existing field access and associated landscaping works. The scheme has been amended to reduce the overall height of the building to reduce its visual impact.

The building will be of a standard portal frame design with timber clad walls under a metal roof.

Relevant History:

No relevant planning history.

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

Ward Member: No response

Parish Council: Recommend refusal –

- Outside the development line.
- Impact on landscape - design, appearance and relationship with the surrounding area.
- The application makes no mention of how they intend to deal with animal waste, no mention of storage provision for dung/slurry and the pollution threat from that.
- If it was passed the PC would like there to be no possibility of change of use.

Highways Development Officer: Standing Advice.

The Coal Authority: No objections subject to the imposition of a standard advice note reminding the applicant that the development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority.

Environmental Protection: No objections.

Contaminated Land: No objections.

Ecology: No objections subject to the imposition of standard conditions.

Somerset Minerals: No response.

Local Representations: 17 letters of objection received raising the following concerns –

- Outside development limits
- Applicant has no intention of farming the land with the unauthorised use of the land for motocross use clearly shows.
- Visual impact on the landscape
- Noise and disturbance
- Impact on wildlife
- No economic value
- No details for the disposal of animal waste
- The limited size of the holding could not support a viable farming enterprise.
- Increased traffic

Full comments can be viewed on the Council's Website.

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 Local Plan Part II: Sites and Policies, Post-JR version, 16 December 2022.
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

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

- CP1 – Mendip Spatial Strategy
- CP4 – Sustainable rural communities
- DP1 – Local Identity and distinctiveness
- DP4 – Mendip Landscapes.
- DP5 – Ecology
- DP6 – Bats
- DP7 – Design and amenity.
- DP8 – Environmental Protection
- DP9 – Transport
- DP10 – Parking

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

The key consideration in determining this application relates to the erection of the proposed barn with associated landscaping and access improvements as proposed. The application

is not seeking and change of use of the land nor to regularise the unauthorised motocross use of the land which have now ceased.

Principle of the Use:

The application site is situated within the open countryside where development is strictly controlled. However, the proposal is for an agricultural building on agricultural land reasonably necessary for the purposes of agricultural.

Policy CP4 supports new rural economic development which are considered to be of a manner and of a scale which are appropriate to the location and the constraints upon it.

The proposed building is considered to be a size commensurate with the 3ha holding and having regard for the assessment below is considered to be of a manner and scale appropriate to the location and the constraints upon it and therefore acceptable in principle in accordance with Policies CP1 and CP4 of the LP.

Only the use of the building for agricultural uses is thought to meet with the Council's Policy for sustainable rural development in this location and any other uses of the building would require the Council's further consideration and therefore, it is recommended that the use of the building be restricted through condition.

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

The proposed building is of a standard agricultural design acceptable within the context of its rural setting. The amended height of the proposed building will reduce its visual impact within the landscape, and given its massing, form and agricultural appearance, would be appropriate within the site's rural context and will not have a harmful impact on the landscape character of the area. The proposal accords with policies DP1, DP4 and DP7.

Impact on Residential Amenity:

The limited scale of the proposal will ensure that it ensures the protection of the users of neighbouring buildings and other land uses and provide a satisfactory environment for current and future occupants in accordance with Policies DP7 and DP8 of the LP.

The use of the building for the housing of livestock should not come into use until such time as a suitable scheme for the management and disposal of animal waste has been approved. This can be secured through condition.

Impact on Ecology:

The siting of the proposed building will not result in the significant loss of any protected habitats not protected species. The Council's Ecologist has raised no objections and has recommended conditions to ensure ecological protection and conservation and the implementation of ecological enhancements in accordance with Policies DP5 and DP6 of the LP

Assessment of Highway Issues:

The site will utilise existing field access points, one of which is to be widened by 1.5m which is considered acceptable for the proposed smallholding use.

Whilst there is ample space on site for the provision of parking and turning, no details have been provided and these should be sought through condition.

The proposal raises no adverse highway safety or parking concerns over or above those which already exist and accords with Policies DP9 and DP10 of the LP.

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, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Other matters not already addressed:

Applicant has no intension of farming the land. The unauthorised use of the land for motorcross use clearly demonstrates this.

It is understood that the motorcross activities on the site have ceased. The application before the Council is for the erection of a agricultural building to be used for storage of equipment to maintain the land and to house a small number of animals.

Any past uses of the site, unauthorised or otherwise are not in this case a material consideration in determining the outcome of the application.

Noise and disturbance

The use of the building for agricultural storage and animal housing will raise no adverse amenity concerns over or above those which currently exist between neighbouring land uses.

Whilst, there are protected residential properties within 400m of the site, the very limited scale of the proposal will not result in any adverse noise disturbance and subject to details of how animal waste is to be dealt with, the scheme will raise no adverse odour concerns.

The Council's Environmental Protection Officer has raised no objections to the proposal.

No economic value/the limited size of the holding could not support a viable farming enterprise.

The applicant need only to demonstrate that the building as proposed is reasonably necessary for the purposes of agriculture. Only if the applicant requires a dwelling to support an enterprise in an isolated rural location, would the Council insist that there is an essential functional need for the dwelling and that the enterprise is financially sound to support a fulltime worker.

There is no requirement for the applicant to demonstrate that their smallholding might be financially sound in order to ensure permission.

Increased traffic

The very limited scale of the development is unlikely to generate any significant increase in traffic which might be considered so severe as to raise highway safety concerns locally or on the wider highway network.

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:

A-E10-001

A-E10-002

A-P10-003 A

A-P10-004 A

A-P10-005 A

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

3. **Use of building for agricultural purposes only (Compliance)**

The development hereby approved shall be used for solely for agricultural purposes and no other commercial use or activity without the express consent from the Local Planning Authority.

Reason: The approved agricultural use only has been found to be acceptable in this location and other uses will require the further detailed consideration of the Local Planning Authority in accordance with Policies CP1 and CP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Provision of animal waste storage and disposal details (Bespoke trigger)**

No animals or livestock shall be housed within the building hereby approved until details of the arrangements for the storage and disposal of animal waste have been first submitted to and approved in writing by the Local Planning Authority. The storage and disposal of animal waste shall thereafter be undertaken only in accordance with the approved details.

Reason: In the interests of residential amenity having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Parking and Turning Area (Bespoke Trigger)**

No construction above slab level shall commence until plans showing an on-site parking and turning area, including full details of the surfacing materials, has been submitted to and approved in writing by the Local Planning Authority. The use of the building shall not commence until the parking area has been constructed in accordance with the approved details and shall not thereafter be used other than for

the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and safe parking and turning is provided in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. Reptiles and Amphibians Protection (Compliance)

Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10½C or above) before clearing to minimise the risk of harming/killing any reptiles or amphibians that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. Hedgerows and Tree Protection (Compliance)

All hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.

Reason: In the interests of European and UK protected species and biodiversity generally and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. External Lighting (Bespoke Trigger)

No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory

or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

9. **Wildlife Enhancement (Compliance)**

The following enhancements will be incorporated into the site proposal or within the wider applicant ownership boundary, with photographs of the installed features submitted to the Local Planning Authority prior to first use of the building hereby approved -

- a) One Vivara Pro Woodstone Nest Boxes (32mm hole version) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter
- b) One Vivara Pro Barcelona Woodstone Bird Box (open front design) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter
- c) Installation of one bat box, purchased or built, on to a mature tree on site, facing south or west, at a height above 3m.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework, and the Environment Act 2021.

Informatives

1. 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.

2. **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.

3. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
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. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (greater than 200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation

of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

6. The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

7. Informative Note

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling

activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

8. You are reminded of the need to comply with the requirements of the Water Resources (Control of Pollution) Silage, Slurry and Agricultural Fuel Oil (England) Regulations 2010.