

Application Number	2024/0506/FUL
Case Officer	Kelly Pritchard
Site	Tilham Farm Tilham Lane Baltonsborough Glastonbury Somerset
Date Validated	28 March 2024
Applicant/ Organisation	D Symonds
Application Type	Full Application
Proposal	Demolition of existing barn and erection of new 4 bed dwelling with detached garage. (AMENDED PLANS RECEIVED 09.07.24)
Division	Mendip South Division
Parish	Baltonsborough Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Claire Sully Cllr Rob Reed

What Three Words: stealing.smart.mingles

Referral to the Planning Committee:

The officer recommendation is for refusal, the divisional member did not submit comment and the Parish Council supports, and therefore in accordance with the scheme of delegation this application was referred to Chair and Vice Chair of the Planning Committee. Following this process the Chairman requested that the application be considered by the Planning Committee.

Should the application be approved it would be a departure to the development plan.

Description of Site, Proposal and Constraints:

The application relates to a barn at Tilham Farm, Tilham Lane, Baltonsborough. The site benefits from two points of access from the public highway, one from Ham Street the other from Tilham Lane.

There is an existing open fronted barn on the site which had the benefit of prior approval for its conversion to a dwelling under planning reference 2021/1398/PAA. Subsequently planning permission was given for the barn to be demolished and a new dwelling erected under LPA case ref: 2021/2922/FUL. This approval is extant.

For context, to the west is a further larger barn which has received planning permission to be demolished and four dwellings erected under LPA ref: 2023/2304/FUL.

The site is located outside defined development limits, within a Site of Special Scientific Interest Impact Risk Zone and within the Somerset Levels and Moors Ramsar Risk Area. Immediately to the north of the site is a public right of way and Ham Street which is to the south is a Sustrans National Cycle Network.

The application seeks full planning permission for the demolition of the existing barn and erection of one four bed dwelling with detached garage further south of the barn to be demolished and with a larger garden area that consented by the 2021/2922/FUL application.

The red line application site confirms that the existing access from Ham Street will serve the proposed unit.

The dwelling will be two parts with a link between, one part will be two storey and take the shape of a Dutch Barn. A mixed palette of materials is proposed including timber cladding, stone, slate, and metal standing seam roof.

The 2021/2922/FUL dwelling took the form of a single storey dwelling with a mono pitched roof measuring approximately 4m high at its highest point. The proposed Dutch barn element will measure 7.5m high with eaves being 5.4m. The single storey part of the dwelling will be 5.5m and the detached garage will be 5m high.

Relevant History:

The following covers the planning history for the farm site.

- 067276/002AG - Removal of agricultural buildings, erection of a dutch barn and formation of a new vehicular access and track off Ham Street to serve the agricultural unit. Permission required. 31.01.03
- 067276/003 - Extension to existing dwelling, conversion of barn into additional ancillary accommodation, erection of garaging and workshop and use of land as domestic curtilage. Approval. 07.03.03
- 067276/004 - Creation of an agricultural access onto Ham Street. Approval. 17.04.03
- 067276/006 - Erection of agricultural barn for livestock accommodation. Approval. 15.12.04

- 067276/008 - Erection of a holiday let together with annexe, workshop, garage and conversion of outbuilding into additional ancillary accommodation to serve Tilham Farmhouse. Approval. 04.08.05
- 067276/009 - Erection of 2 holiday lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham farm. Approval. 03.07.07
- 067276/010 - Erection of 2 Holiday Lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham Farm. Approval. 26.09.07
- 2022/1619/PAA - Prior Approval for a proposed change of use of agricultural building to four dwellinghouses (Class C3) and for associated operational development. Deemed consent. Prior approval given. 21.10.22
- 2023/1117/FUL - Conversion of barn into four dwellings. Withdrawn. 21.12.23
- 2021/1398/PAA - Prior Approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development. Prior approval given. 04.08.21 (this refers to the open fronted barn being considered as part of this application)
- 2021/2922/FUL - Demolish the existing barn with a previously approved Class Q change of use and erection of a three bed dwellinghouse. Approval. 01.08.22 (this refers to the open fronted barn being considered as part of this application)
- 2023/2304/FUL - Demolish barn and erection of 4 new dwellings. Approval. 08.03.24

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

Divisional Member: No comments received.

Baltonsborough Parish Council: Approval.

- Concerns were expressed about scale and impact on the landscape and that a significant number of mature trees had already been cut down to accommodate this application. The Parish Council would like to see more 'specimen trees' planted.

Highways Development Officer: Wishes to consider further. Comment on way as of 08.07.24

Environmental Protection: No objection.

Ecology: Objection.

Regarding Phosphates

The proposed scheme includes the addition of a extra bedroom which must be considered in the nutrient mitigation. The existing class Q application redline boundary is different to the new full application therefore class Q rules do not apply and the application 2024/0506/FUL would be subject to phosphate assessment.

At this time insufficient information has been submitted to satisfy the LPA that the ecology impacts from the development have been sufficiently taken into account and, as such, satisfactorily mitigation measures have not been provided, in line with Mendip District Local Plan 2006-2029: DP5 - Biodiversity and Ecological Networks.

Regarding Ecology

The PEA undertaken by Hash Ecology Ltd (July 2023) indicates measures which will be required in order for development to continue and these could be covered by planning conditions should the development be approved.

Biodiversity and Landscape Officer: No comments received.

Somerset Rights of Way: There are public footpaths, WS 1/24 and WS 1/25, that run adjacent to the site. No development should affect these rights of way unless a temporary closure/stopping up/diversion order has come into effect.

Local Representations:

Three letters of objection have been received and their comments are summarised below;

- Harmful to the character of the area due to siting, scale and it is further into fields than the original consent.
- Hazard to users of footpath.
- The existing barn could be retained which would result in over development.
- As this is significantly different then a new ecology report would be required.
- The visibility splays onto Ham Street are inadequate

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)
- 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)
- 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 site is within open countryside, outside the settlement limits in an isolated location, where development is strictly controlled.

This site already benefits from an extant permission, 2021/2922/FUL, for the erection of a dwelling on the site of an existing agricultural barn which previously had the benefit of prior approval for the conversion to a dwelling. Planning law requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst there is an extant permission for a dwelling it is considered that the current scheme proposed is larger in scale, encompasses a larger area of land and is proposed further south of the consented dwelling, and as such the assessment of this case is significantly different to the consented scheme. It is considered that the impacts of the proposed development are greater than that already consented which will be discussed in more detail later in the report. It should be noted that should planning permission be granted for the development proposed, the existing consented dwelling could equally be erected and there is currently no mechanism submitted to revoke that permission. The proposed application is for an unjustified new dwelling in the countryside.

The starting point is that the development does not accord with the objectives of providing sustainable development as promoted by local policy and the National Planning Policy Framework. However, it is accepted that a dwelling could be provided further north of this site as part of the extant planning permission on the site of an existing agricultural barn as set out above.

An assessment of this current application in terms of compliance with the development plan, is set out below. The primary consideration being whether the scheme now being considered in this rural location would be detrimental to the character of the countryside.

Policies CP1 and CP2 of MDLP 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 12, 13, and 22), which do not apply in this case. Policy CP1 directs that new housing should

be located in sustainable locations in the 5 market towns and villages near to services and facilities.

The Local Planning Authority (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) can not be given full weight in the decision making process on this application. 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.

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.

The proposal is for an unjustified dwelling in the open countryside where development is strictly controlled. The principle of a dwelling in this location does not accord with the requirements of CP1, CP2, CP4 or the NPPF. The adverse impacts of granting permission are considered to significantly outweigh any benefits.

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

The existing barn is a simple open fronted, single storey agricultural building. The dwelling consented on the land where the existing barn is located is reflective of its modest rural character with a small garden. It is well related to the other development on the farm.

The proposed dwelling is further south of the consented dwelling in another field and very different in terms of its design, siting and scale. The building development now proposed takes the form of a single storey element and linked to it would be a two storey building which is similar in design to a Dutch Barn and a detached double garage instead of a simple single storey building.

A proposed vehicular track to serve the development will branch off the existing track which leads from Ham Street and will serve the dwelling on its south side. To the front (south side) of the existing barn is a track which was shown to serve the consented dwelling and it currently continues in a westerly direction to serve the existing farm buildings and residential dwellings beyond. To the north of the existing barn is a grassed track which runs on an east to west axis and includes a public right of way. The red line for the current application extends to include the northern track and shows the existing vehicular track from Ham Street extended northwards and continuing around the north side of where the barn is currently located. It is considered that this new internal access arrangement adds to the urbanisation and overall harm to the character and appearance of the area.

The countryside is to be protected for its own intrinsic character and beauty and whilst it is appreciated that the consented dwelling would have had an impact, its location would be within the confines of the existing barn and its hardstanding and in the historic context of the consent conversion of the existing building to a dwelling. The proposed development is considered to be an unnecessary urban encroachment into green field land and it is considered that the impact of the approved scheme is far less than the scheme now proposed.

The proposed dwelling by virtue of its siting, scale, layout, contrived design and extension of the internal access arrangements which will be visible from the road and the public right of way represents an unacceptable form of development in the open countryside which will have a detrimental impact on the visual amenity and the landscape character of this rural locality.

The application suggests landscape enhancements in and around the site, however, this is not considered to mitigate the scheme impact, and/or outweigh the harm arising to the overall rural character of the area.

Assessment of Highway Issues:

The development proposed is shown to be accessed from the existing Ham Street entrance and the visibility plans submitted are the same as those submitted and approved by the Planning Committee in March when they considered application 2023/2304/FUL for four dwellings to the west of the site.

Whilst the current visibility splay falls short of what would normally be required in this speed limit, the traffic speeds are likely to be significantly slower than the speed limit due to the roads topography and being close to the 30mph speed limit entering the village.

It is considered that the means of access as proposed from Ham Street to serve the dwelling is acceptable. However, if this application were to be approved and the extant permission implemented Somerset Highways would need to consider this further as this would be a further intensification of the existing access.

It is considered that there is adequate space within the site for parking and turning.

In summary the means of access and parking arrangements are considered to be acceptable and maintain highway safety standards. The proposal accords with Policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Having regard to the new track proposed to the north of site should this application be approved, a public footpath diversion order may be necessary.

Impact on Residential Amenity:

The resulting dwelling will be set within a self contained plot separate to the original farmhouse plot and away from other residential properties.

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.

Impact on Ecology:

Originally a bat and bird scoping survey report dated March 2021 was submitted with the application. It was the same report used to assess ecology on the previous applications and as it is now over two years old and it does not include the land where the dwelling is now proposed as such it is not fit for purpose. A further Preliminary Ecological Appraisal Report has now been submitted and assessed by SES. SES are satisfied with the recommendations of the submitted report and suggest planning conditions to safeguard ecology on site and its habitat.

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.

Whilst the principle of a dwelling in the vicinity, has been agreed by the planning history, it was for a three bed dwelling one with ensuite, and family bathroom. The dwelling proposed is for four bedrooms, two with ensuite a family bathroom and a separate additional WC as such the impacts as a result of foul drainage may have increased and potentially the number of occupants. As such, 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. 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.

Refuse Collection:

A storage space for refuse bins has been provided within 15m of the highway which is considered acceptable.

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:

It is recognised that a dwelling on the smaller site to the north can be achieved by the extant permission, but this is within the confines of the existing built development. This application proposes a new unjustified dwelling encroaching into the countryside where development is strictly controlled.

The development does not accord with the objectives of Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part I with regards to strictly controlling development outside the Development Limits and the approach to the delivery of housing.

The proposed development by virtue of its siting, scale, layout, contrived design and extension of the internal access arrangements represents an unjustified encroachment into the countryside which will have an urbanising effect detrimental to the visual amenity and the landscape character of this rural locality harming its intrinsic character and beauty contrary to DP1, DP4 and DP7.

Although the Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF does apply in this case. Although 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 given the extant permission the planning balance does apply in this case. Given the absence of any phosphate information it is unclear whether the proposal would have an adverse effect in relation to the Somerset Levels and Moors Ramsar site, as such it is considered necessary to include the second reason for refusal.

In summary, taking all the above into consideration, it is not considered that the benefits would outweigh the significant harms identified. Therefore there is no policy support in the development plan or the NPPF and the application is recommended for refusal as it is not considered a sustainable form of development.

Recommendation

Refusal

1. The development proposed does not accord with the objectives of local and national policy with regards to strictly controlling development in the open countryside. The development by virtue of its siting, scale, layout, contrived design and extension of the internal access arrangements represents an unacceptable form of development in the open countryside which would fail to maintain or enhance the environment. Its urbanising effect and encroachment into the countryside would have a detrimental impact on the visual amenity and the landscape character of this rural locality and a harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to the provisions of Policies CP1, CP2, CP4, DP1, DP4, and DP7 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted Dec 2014), the National Planning Policy Framework and Planning Practice Guidance.
2. 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, DP6 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 drawings 1839/010, 1839/005, 1839/002 and 1839/001 received 14.03.24, 1839/020A, 1839/013, 1839/012A, 1839/011A, 1839/004A and 1839/003A received 24.03.24.