

Committee date 13/08/2024

Application No: 21/23/00023
Application Type: Full Planning Permission
Case Officer: Amelia Elvé
Registered Date: 16/10/2023
Expiry Date: 10/12/2023
Parish: Compton Bishop
Division: Brent
Proposal: Erection of an agricultural building and hardcore area.
Site Location: Land adjacent to River Axe, North of, Turnpike Road, Lower Weare, Axbridge, Somerset, BS26
Applicant: Mr M Babbage



Committee decision required because

The officer's recommendation is contrary to the view of the Parish Council.

Background

The application site is currently a field located approximately 200m to the north of a Class A road. The site is accessed via a track that has been constructed following consent in 2022.

The application seeks consent for the erection of an agricultural building. The proposal is to measure approx. 9m in height, with a footprint of approx. 42.7m x 19.5m. The building is proposed to be finished with concrete panels, Yorkshire boarding and fibre cement sheeted roof. The applicant has 150 head cattle and

the proposal is to provide housing for the cattle, including a covered dung store, store for straw to be used as bedding and a machinery store.

The building was originally proposed to be sited further to the north, however following negotiations the building has been relocated 130m to the south.

Relevant History

49/22/00002 – Formation of a new access track – **Granted**

Supporting information supplied by the applicant

Location Plan Drg No. 2073/23/01Rev B

Proposed Site Plan Drg No. 2073/23/02 Rev D

Proposed Plans and Elevations Drg No. 2073/23/03

Consultation and Representations

- Date of consultation: 14 November 2023
- Date of revised consultation (if applicable): 19 January 2024
- Press Date (if applicable): 01 February 2024
- Site Notice Date (if applicable): 26 January 2024

The submitted comments are available in full on the Council's website.

Consultees the following were consulted:

| Consultee Name | Summary of Response |
|-------------------------------|---|
| Compton Bishop Parish Council | <p>Object (14/12/2023) – <i>Council objects to this application because, inter alia, it does not comply with Local Plan policies D1, 19, 23 and 24. Council sets out its reasons for objection hereunder.</i></p> <p><u><i>General Observation/Need for Development</i></u> <i>The proposed building is positioning within a historic farmland and field systems unchanged for generations.</i></p> <p><i>These fields are known as fattening pastures for a good reason. They are low-lying and waterlogged for the majority of the year and have been successfully farmed by traditional seasonal farming techniques for centuries. It seems counter intuitive to encourage developments on this historic farmland, which only works against nature and the natural topography of such unique and given landscape characteristics.</i></p> |

The question is, would approval be agreeing to support an established farmer with genuine farming needs or just granting yet another opportunity for an obscure development that further compromises and diminishes the natural landscape together with its flora and fauna?

In the circumstances, Council takes it that the Planning Officer will be thoroughly investigating whether or not there is actually an overriding need for this development.

Reasons for Objection

Impact on Landscape

The development is close to the Mendip Hills AONB and in unspoiled countryside.

The proposed building is 42.7m long x 19.5m wide. That is to say, 833 sqm floor area comprising 290 sqm strawed area, 420 sqm covered yard and the remainder given over to storage. The building is 9m high.

Surrounding the building is a proposed hardcore hardstanding of some 3000sqm.

It is apparent that the whole development will have a significant negative visual impact on the protected Mendip Hills AONB landscape when:

- a) Viewed looking outwards from the many public accessible vantage points on the Mendip Hills*
- b) Viewed looking towards the Mendip Hills from PROWs*

The development will harm the character and visual amenity of the protected landscape. No mitigation measures have been offered. Moreover, it is unlikely that any measures could be offered that would negate the harm such a large development will cause.

Similarly, it is also apparent that the whole development will have a significant adverse impact on the local landscape character, historical landscape and presently unspoiled scenic quality when viewed from the Hills and PROWs.

In the opinion of the Council, the Application does not comply with Local Plan policy D19.

Flood Risk and Surface Water Management

The development is only 25m from the River Axe. It has within it ancient ridge and furrow field systems and is surrounded by Flood Zones 2 and 3 and historic rhyes. The nearest rhyne is 22m from the development.

The application does not reasonably explain how flood risk and surface water is to be managed. For example, with regard to the matter of surface water, the applicant proposes disposal via soakaway. However, since the site is a flood plain with an underground water level close to the surface, soakaway or soakaways would not appear appropriate.

The building's floor construction is not specified. Is it solid concrete or a permeable sub base such as stone or hardcore? In any event, water from the roof and from hardstanding areas will be considerable and of major concern if a disposal system is not professionally designed, approved managed and maintained.

Bearing in mind the intended use of development there is an evident risk of contaminated water entering the rhyes and river.

Considering the absence of detailed specifications and drawings to explain how flood risk and surface water is to be managed, Council is of the opinion that the application does not comply with Local Plan policy D1.

Bat Consultation Zones

Council notes that the application does not include a Bat Survey. Council is of the opinion that a survey is necessary and that therefore the application does not comply with Local Plan policy D23.

Ecology Appraisal

In view of the location of the development in unspoiled countryside, Council considers that an Ecology Appraisal absolutely essential.

Pollution Impacts of the Development

The application Design Statement states that the site (building) is approximately 400m from the nearest property on Turnpike Road (A38). After taking some measurements the distance from the proposed site to the centre of the A38 is an average of 290m. There are plenty of residential properties that fall within the 400m quoted in the Design Statement.

It seems possible that the air pollution will arise as a result of the development.

It is unclear from the application documents how much noise will be generated on the development or whether the site is to have artificial lighting.

It is likely that the development would cause noise and that some lighting will be required.

The application acknowledges that waste will be generated but does not elaborate on how much waste will be generated daily by 80 cattle or how the waste is to be disposed of without causing pollution of the water courses. The dung store seems inadequate.

It is likely that the development will generate odour but the application does not explain how the odour will be overcome.

Council is of the opinion that the application does not comply with Local Plan policy D24.

Public Right of Way Obstruction

A new hardcore road/track has been constructed between the A38 at Lower Weare and the location of the proposed development. Approval for this road/track was granted against 49/22/0002. The purpose of the road/track would now appear to be to gain better access to this proposed development.

PROW AX 26/15 is shown on maps as running diagonally across the field where the new road/track has been constructed to join up with PROW AX 15/13A in the opposite corner of the field near the proposed development site. Users of the PROW seem to be encouraged to walk along the newly installed road/track, thus redirecting the footpath route.

The PROW mapped route has been hampered by additional internal stock fencing and obstruction along its route at the junction of AX 15.13A and AX 26/15. A pedestrian friendly gate needs to be installed.

This matter needs to be resolved whether or not approval is given.

Observation in regard to 49/22/00002

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| | <p><i>When visiting the development, Council representatives noticed that the first 10m of the road/track is not concrete as indicated in the approved application documents. Is this because of ana mended agreed by Sedgemoor District Council or Somerset Council?</i></p> <p>(22/02/2024) – resubmission of previous objection.</p> |
| Weare Parish Council | <p>Object <i>(23/11/2023) – My councillors met on Tuesday the 21st of November to discuss the planning application 21/23/23 and have objected to the application as it impacts on an AONB. The water course would be under threat to horse manure. There has been no Environmental Impact Analysis carried out and there is no Ecology Survey. My Councillors are concerned that its location is close to the River Axe and are concerned about run off and pollution. There is also no mention of the light and noise impact locally.</i></p> <p><i>(31/01/2024) – Weare PC Members are still very much opposed to the livestock building with the smell, noise and flies that will cause a nuisance to the neighbouring properties, as the proposed building appears to be only 100m from some of the nearby dwellings. The animal waste from cattle will be detrimental to the close by properties and it is suggested the agricultural building needs to be re-sited to approximately 400m from these dwellings for health and safety reasons.</i></p> |
| Brent 1 – Bob Filmer | No response |
| Brent 2 – Tony Grimes | No response |
| Axe Brue Drainage Board | Comment recommending conditions in respect of surface water drainage system and buffer strips and provision of an informative to remind the applicant of the requirements for Land Drainage consent. |
| Defence Estates | No objection |
| Environment Agency | No response |
| Natural England | <p>(04/12/2023) – Comment requesting further information in respect of air quality impacts.</p> <p>(28/06/2024) – Following submission of air quality assessment, confirmation that Natural England has no further concerns.</p> |
| Somerset Council – Civil Contingencies | Comment recommending a Flood Warning and Evacuation Plan to be created and maintained. |
| Somerset Council – Ecology | <p>(28/11/2023) -Comment requesting a Preliminary Ecological Appraisal.</p> <p>(09/04/2024) – Following the submission of ecology report, recommendation of conditions to secure</p> |

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| | biodiversity enhancement and mitigation measures. |
| Somerset Council – Environmental Health | Comment recommending conditions in respect of surface water and manure heap management. |
| Somerset Council - Highways | No observations |
| Somerset Council – Rights of Way | <p>Comment</p> <p><i>The proposed fencing will obstruct the legal line of the footpath AX 26/15 and the applicant will therefore either need to apply for a path diversion order or amend the plans to prevent any obstruction.</i></p> <p><i>The proposed hardcore area will require surface authorisation from SC Rights of Way Group where it coincides with path AX 26/15. Associated infrastructure may also be required. A temporary path closure may be necessary prior to the works taking place and therefore the applicant is advised to discuss the proposals further with RoW.</i></p> |
| South West Heritage | <p>No objection</p> <p><i>There are limited or no archaeological implications to this proposal.</i></p> |
| The Mendip Society | <p>Object</p> <p><i>(29/11/2023) - The significant negative visual impact on the Mendip Hills AONB of such a large development looking outward from and inward towards the hills. Similarly, the negative impact on the unspoiled countryside surrounding the development</i></p> <p><i>The negative impact on natural flora and fauna</i></p> <p><i>Inadequacy of application in regard to:</i></p> <p>a) <i>Plans for drainage and disposal of manure</i> b) <i>Prevention/limitation of noise, air and light pollution.</i></p> <p><i>(20/01/2023) – We have considered the revisions and respond as follows.</i></p> <p>Visual Impact</p> <p><i>We note that the development has been moved to a revised location a little further from the Mendip Hills AONB and that a small copse is proposed, presumably to limit the negative visual impact, in the long term, on the AONB. It is also proposed to allow the hedge to grow presumably to limit the impact on neighbouring properties. We have two points:</i></p> <p>a) <i>We consider that the negative visual impact of such a large development on the AONB looking toward from and inward towards the hills, will be reduced. Similarly, the negative impact on a portion of the unspoiled countryside surrounding the development. However, bearing in mind the size of the development, we are not convinced that the proposed measures will be sufficient to</i></p> |

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| | <p><i>reduce the negative visual impact to an acceptable level particularly when viewed from the NW, W and South. For example, from the AONB and PRoWs.</i></p> <p><i>b) There should be a condition requiring the hedge to be of a height, sufficient to hide the development when viewed from the E/SE. Moreover that the hedge shall be maintained in perpetuity.</i></p> <p>Flora and Fauna <i>We consider that there will be a negative impact on natural flora and fauna albeit that some of the negative impact could be reduced by a <u>managed</u> wildlife copse and the higher hedge.</i></p> <p>Drainage, Manure and Pollution <i>We consider that the application remain inadequate in regard to:</i></p> <p><i>a) Plans for drainage and disposal of manure</i> <i>b) Prevention/limitation of noise, air and light pollution</i></p> |
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Local representations:

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

13 representations have been received making the following comments (summarised):

| Material Planning Considerations | |
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| Objections | Officer Comment |
| The proposal is in close proximity to the boundary of a residential dwelling, manure would generate an unacceptable odour and flies, noise generation from the cows that are to be accommodated within the building, inclusion of rooflights will result in light spill to the detriment of residential amenity and the proposal would overshadow the adjacent campsite. | Considered under residential amenity section and Environmental Health have been consulted. |
| The proposal is an eyesore and would have an adverse visual impact on the setting of the AONB, is an incongruous structures that is out of character and is of a size and scale that is inappropriate for a small village. | Considered under visual amenity section. |
| Insufficient ecological information submitted and impact of light spill on ecology. | Considered under ecology section – the County Ecologist and Natural England have been consulted. |
| The development does not pass the Sequential Test for the purposes of flood risk | Considered under flood risk section. |
| Impact on users of the public right of way | Considered in the report and the Rights of Way Officer has been consulted on the application. |
| The proposal would pollute the adjacent waterways | The Internal Drainage Board have been consulted on the application. |
| The proposal would result in an unacceptable level of traffic generation. | The Highways Authority have been consulted on the application. |

| Support | Officer comment |
|---|--|
| Would provide an economic benefit and is required to sustain the agricultural enterprise. | Considered under principle of development section. |

Summary of objections - non planning matters

- Detrimental impact on views from the adjacent properties.

Summary of support - non planning matters

- The quality of the existing work that has been undertaken is of a high standard.

Most Relevant Policies

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF require that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Framework

Section 12 – Achieving well-designed places

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment Sedgemoor Local Plan (2011-2032)

CO1: Countryside

D1: Flood Risk and Surface Water Management

D2: Promoting High Quality and Inclusive Design

D14: Managing the Transport Impacts of Development

D20: Biodiversity & Geodiversity

D23: Bat Consultation Zones

D25: Protecting Residential Amenity

D26: Historic Environment

Main Issues

Principle of Development

The application site is outside of any Development Boundary, and development in such locations is strictly controlled unless it can demonstrate a specific locational requirement as set out in policy CO1.

The proposal seeks consent for the erection of an agricultural building and this use requires a rural location. The proposed building is required to support an existing rural enterprise. It is therefore considered that in

this respect, the application complies with policy CO1 of the Local Plan.

Flood Risk and Surface Water Management

The application site is in Flood Zone 3. Policy D1 of the Local Plan states that when undertaking site-specific Flood Risk Assessments (FRA), regard should be had to the sources of flooding as detailed in Sedgemoor's Strategic FRA and any more recent mapping made available by the Environment Agency.

Where the Sequential Test is considered to be passed the vulnerability of the development must still be compatible with the Flood Zone, including application of the Exception Test (as required). A FRA must also demonstrate that the development will be safe over its life time and not increase flood risk elsewhere, including addressing any residual flood risk and access/egress issues.

Part of the application site is within Flood Zone 3, however this only relates to the access to the building. It is therefore considered that the Sequential and Exceptions tests are considered as passed.

Policy D1 of the Local Plan seeks to ensure that the surface water run off generated from development is adequately assessed and does not result in a detrimental impact on the wider area and existing water courses.

The Internal Drainage Board has reviewed the proposal and has recommended conditions in respect of surface water management and the required maintenance buffer for the adjacent rhyne. An informative has also been provided to remind the applicant of the Land Drainage Consent requirements.

It is therefore considered that in this respect, the application complies with policy D1 of the Local Plan.

Visual Amenity & Landscape

Policy D2 seeks to achieve high quality, sustainable and inclusive design which responds positively to and reflects the local characteristics of the site and identity of the surrounding area and be of a design solution that makes the most efficient use of land through appropriate densities, whilst recognising the need for positive treatment of the spaces around and between the building.

Policy D19 of the Local Plan supports development within the setting of AONBs if potential harm can be *negated through appropriate and acceptable* mitigation measures. The policy seeks to protect and enhance the natural environment wherever possible and seeks to ensure that schemes incorporate mitigation and compensation measures.

Concerns have been raised that the proposal would have a detrimental impact on views from the Mendip Hills AONB. The proposed development is located approx. 1.1km to the south of the boundary of the AONB and given this landscape, and the location of the proposed building in relatively proximity to existing built development, that there would not be a significant detrimental impact on the protected landscape. The proposal also includes a 1050sqm woodland which would also soften the visual impact further.

In respect of the details of the proposed building, this is to be finished in materials that are typical for

agricultural buildings. It is noted that the size of the building is fairly large, however given the distance from the protected landscape, the screening from the main road due to the existing buildings, the planting proposed and the existing hedgerows in the intervening land, that there would not be a detrimental impact on the visual amenity of the site or the wider area.

It is therefore considered that in this respect, the proposal complies with policies D2 and D19 of the Local Plan.

Residential Amenity

Policy D2 states that development should 'respect the amenity value of the occupiers of nearby buildings or the wider area' and new development should deliver buildings that are "enjoyable to use". This is further supported by Policy D25 which states that 'Particular consideration will be given to the extent that the proposal could result in unacceptable impacts'. This includes consideration of loss of privacy, overlooking, visual dominance, loss of light, noise/disturbance, odour, fumes, vibration and living conditions of future occupants.

There are a number of residential properties located to the south of the proposed building. The closest of these is approx. 165m from the proposal and due to the distance, it is considered that the proposed development would not result in an unacceptable impact in respect of overlooking, overshadowing or overdominance.

Environmental Health have reviewed the application and have recommended a condition to secure a management plan of manure and animal bedding to further protect the amenities of neighbouring residents.

A number of third party representations have raised concerns regarding the impact of the proposal on the occupiers of the adjacent campsite. Some of these concerns relate to the impact on the view from the campsite, however this is not a material consideration. Other comments raise concern that the proposal would have a over dominating impact on the occupiers of the campsite. Given that the use of the campsite is seasonal, the hedgerow between the proposal and the campsite and the proposed building is sited approx. 10m from the boundary and does not run along the whole of the boundary shared, it is not considered to have a significant detrimental impact on the amenities of occupiers of the campsite.

It is therefore considered that in this respect, the application complies with policies D2 and D25 of the Local Plan.

Ecology

Policy D20 of the Local Plan seeks for proposals to contribute to maintaining and where appropriate enhancing biodiversity and geodiversity.

Due to the location and the nature of the proposal, Natural England requested further information in respect of air quality impacts that could arise. This has been submitted and is considered to be satisfactory by

Natural England.

In respect of other ecological matters, the County Ecologist has reviewed requested ecology surveys and has recommended appropriate conditions to secure biodiversity enhancement and mitigation measures. It is therefore considered that in this respect, the application complies with policy D20 of the Local Plan.

Historic Environment

Policy D26 sets out that development proposal should avoid harm to, sustain and, where appropriate enhance the significance of heritage assets and their setting, in a manner consistent with their historical significance.

The application site is within an area of high archaeological potential and atop of an archaeological site. SW Heritage have reviewed the proposal and have raised no objection. It is therefore considered that in this respect, the application complies with policy D26 of the Local Plan.

Highways Safety and Public Rights of Way

Policy D14 of the Local Plan states that managing the transport impacts is essential for creating sustainable communities. The policy sets out that development proposals should seek to manage the transport impacts of development.

The Highways Authority have reviewed the application and have made "No Observations".

Concerns have been raised by a third party regarding the proposal and any resultant traffic generation. It is considered that given the existing access track, and that the proposal seeks to accommodate cattle that are already farmed at the site, that there would not be a significant detrimental impact on vehicle movements to and from the site.

A public right of way runs through the site, and the RoW officer has recommended a condition to secure a diversion order and has also provided informative in respect of the public right of way.

It is therefore considered that in this respect, the proposal complies with policy D14 of the Local Plan.

Conclusion

The proposed development is considered to not result in a detrimental impact on visual amenity, protected landscape, flood risk, surface water management, ecology, highways safety, public right of way and the historic environment. As such, the proposal complies with policies CO1, D1, D2, D14, D19, D20, D25 and D26 of the Sedgemoor Local Plan 2011-2032.

RECOMMENDATION

GRANT PERMISSION

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act, 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule A.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include results of infiltration testing, along with details of groundwater levels and soakaway design, in accordance with Building regulations Part H, to verify whether or not soakaways will be suitable for the development. Where soakaways are found to be suitable, details of the soakaways to be installed should be provided. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage shall be detailed and justified instead. The scheme shall also include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details and retained for the life of the development.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding as in accordance with policy D1 of the Sedgemoor Local Plan 2011-2032.

- 4 No building, materials or planting shall be placed within 9m of the watercourse bounding the site.

Reason: To allow access to the watercourse for maintenance as in accordance with policy D1 of the Sedgemoor Local Plan 2011-2032.

- 5 No development hereby approved which shall interfere with or compromise the use of footpath AX 26/15 shall take place until a path diversion order has been made and confirmed (and the diverted

route made available to the satisfaction of the Local Planning Authority).

Reason: To ensure that the public right of way remains accessible as in accordance with policy D14 of the Sedgemoor Local Plan 2011-2032.

- 6 All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Fenswood Ecology March 2024) and the submitted and hereby approved Proposed Site Plan Drg No. 2073/23/02 Rev D. The biodiversity enhancement measures shall be installed prior to the first use of the development hereby approved and retained and maintained thereafter in perpetuity.

Reason: In the interest of the strict protection of European protected species and in accordance with policy D20 of the Sedgemoor Local Plan 2011-2032.

- 7 Prior to the installation of any external lighting, a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed and must demonstrate that a dark corridor will be maintained on site boundary features, hedgerow and/or trees. All external lighting shall 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. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy D20 of the Sedgemoor District Local Plan 2011-2032.

- 8 Prior to the first use of the development hereby approved, details of a scheme for the management of manure heaps, animal bedding and any other waste arising from the use of the livestock building shall be submitted to and approved in writing by the Local Planning Authority. Use of the development hereby approved shall be carried out in accordance with the approved scheme for the lifetime of the development.

Reason: To protect the amenity of local residents and to prevent pollution of any nearby watercourse as in accordance with policies D1, D24 and D25 of the Sedgemoor Local Plan 2011-2032.

Schedule A

Location Plan Drg No. 2073/23/01Rev B

Proposed Site Plan Drg No. 2073/23/02 Rev D

Proposed Plans and Elevations Drg No. 2073/23/03

DECISION
