

<b>Application Details</b>	
Application Reference Numbers:	2023/1932/FUL
Application Types:	Full application
Extension of Time:	03.10.2024
Description:	Conversion of 3no. barns into 4no. 4-bed semi-detached houses and a separate outbuilding.
Site Address:	Barns At Wellhayes Farm, Lower Westholme Road, Pilton, Shepton Mallet, Somerset
Parish:	Pilton
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	No
National Landscape (AONB):	No
Case Officer:	Lynsey Bradshaw
Agent:	Orme Architecture
Applicant:	J Dickson
Reason for reporting application to Members:	The case officer recommendation is to refuse planning permission, and Pilton Parish Council did not object.

## **1. Recommendation**

- 1.1 That planning permission be REFUSED for the reasons set out in the officer report.

## **2. Executive Summary of key reasons for recommendation**

- 2.1 It is recommended that planning permission is refused because the site is outside defined development limits, where development is strictly controlled, and the proposal would require major reconstruction, contrary to DP22. Further to this, the proposal has not provided a site-specific flood-risk assessment, and so has failed to demonstrate the impact of flood-risk on future occupants. Overall, the minimal benefits associated with the development would not outweigh the harms identified.
- 2.2 Consequently, in principle, the proposal is not considered to be sustainable development that outweighs the adverse impacts it would generate, which would significantly and demonstrably cause harm.

## **3. Planning Obligations, conditions and informatives**

- 3.1 Obligations

3.2 Not applicable.

3.3 Conditions

3.4 Not applicable.

3.5 Informatives (refer to recommendation for further details)

1. Drawings and reports considered in making the decision
2. Refusal

#### **4. Proposed development, Site and Surroundings**

4.1 Details of proposal

4.2 The application seeks full planning permission for the conversion of three barns into four 4-bedroom semi-detached houses and a separate outbuilding.

4.3 Site and surroundings

4.4 The application relates to barns at Wellhayes Farm, accessed off Lower Westholme Road (a classified road), in the parish of Pilton. The site is outside defined development limits.

4.5 The site is within Flood Zone 3, the Upper Brue Internal Drainage Board Area, and several Priority Habitats (including 2 4, and Traditional Orchards 3 4 and 4 4).

4.6 The site is within a Site of Special Scientific Interest Impact Risk Zone; however, this is not applicable to this type of development in this location.

4.7 A Public Right of Way (PROW) recorded on the Definitive Map, runs adjacent to the site (public footpath SM 16/27), along the watercourse to the north. A Priority Habitat (1 4) is to the south of the site.

#### **5. Relevant Planning History**

5.1 067193/006 - Change of use of buildings for marquee business and ancillary domestic storage. Approved with conditions 19.02.2017

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for a mixed use of marquee storage and ancillary domestic storage for Wellhayes Farm and for no other purpose in Class B of the schedule to that Order, without the granting the express planning permission of the Local Planning Authority.

Reason: The approved use only has been found to be acceptable in this location and other uses within the same use class may require further

detailed consideration by the Local Planning Authority having regard to the provisions of Policy Q1 and Q3 of the Mendip District Local Plan 2002.

*NB Policy Q1 (Design Quality and Protection of Amenity) has been superseded by DP7; Q3 (Access) has been superseded by DP9.*

This decision was in conjunction with a **Section 106 Legal Agreement** relating to retaining the buildings and dwelling within the same ownership.

- 5.2 2020/2596/CLE - Application for a certificate of lawful existing development for the erection of buildings as outline in red on the submitted site plan. Development is lawful, 15.03.2021.

*NB This decision established that the built form (as shown on drawing number PL4388/2) was lawful but was silent on the use of those buildings.*

## **6. Environmental Impact Assessment**

- 6.1 This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## **7. Habitat Regulations Assessment**

- 7.1 Not required.

## **8. Consultation and Representations**

### **8.1 Statutory and non-statutory consultees**

- 8.2 Statutory consultees are those which must be consulted by the local planning authority for certain planning applications.

- 8.3 It should be noted not all statutory consultees are consulted on all planning applications. The circumstances for statutory consultation are set out in the Development Management Procedure Order.

- 8.4 A summary of the latest/final comments is made set out below however the Council's website should be viewed to see the full representation and or previous representations which have been superseded.

### **8.5 Statutory/Non-Statutory Consultees**

<b>Consultees</b>	<b>Consultee Comments (and Officer Comment)</b>
<b>Mendip South Division Members</b>	No response.
<b>Pilton Parish Council</b>	<ul style="list-style-type: none"><li>• Pilton Parish Council welcomes the use of brown field site development as opposed to green field;</li></ul>

	<ul style="list-style-type: none"> <li>asks that consideration is given to vehicular access and that potential traffic disruption is considered along the narrow lane</li> </ul>
<b>North Wootton Parish Council</b>	In support of application
<b>Officer comment:</b> <i>The site is approximately 0.75km to the south of the North Wootton Parish boundary.</i>	
<b>Environmental Protection</b>	No objection
<b>Contaminated Land</b>	No objection, subject to informative note: Watching brief due to farms
<b>Ecology</b>	No response
<b>Environment Agency</b>	Objection: Inadequate FRA
<b>Rights of Way</b>	No objection: Advice given: Health and Safety of PROW
<b>Somerset Waste Partnership</b>	Concerns regarding adequate household waste roadside collection and storage.

## 8.6 Local consultation and representation

8.7 In accordance with the Council's Adopted Statement of Community Involvement application 2023/1932/FUL was publicised by a letter of notification to a neighbouring property and a site notice was displayed.

8.8 2 letters of objection have been received raising the following summarised planning issues:

<ul style="list-style-type: none"> <li>No notification</li> <li>Impact on highway safety</li> <li>Overdevelopment of the site</li> <li>Loss of economic activity / employment space (with reference to DP20)</li> <li>Buildings not redundant (with reference to DP22)</li> <li>Contrary to policies in the Development Plan</li> </ul>
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## 9. **Relevant planning policies and Guidance**

9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

- 9.2 Relevant policies of the development plan in the assessment of this application are listed below.

Policies of the Mendip District Local Plan Part I: Strategy and Policies (December 2014) Local Plan:

CP1: Mendip Spatial Strategy  
CP2: Supporting the Provision of New Housing  
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  
DP11: Affordable Housing  
DP12: Rural Exception Sites  
DP13: Accommodation for Rural Workers  
DP20: Reuse of Employment Sites  
DP22: Reuse and Conversion of Rural Buildings  
DP23: Managing Flood Risk

- 9.3 Other Relevant Documents are listed below:

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Electric Vehicle Charging Strategy (EVCS) (adopted June 2021)
- Somerset Technical Advice Notes 01/21 Visibility Requirements on the Local Highway Network (updated June 2021)
- Supplementary Planning Document Design and Amenity of New Development;
- Guidance for interpretation of Local Plan Policy DP7 (March 2022)
- National Design Guide
- Technical housing standards – nationally described space standard
- Environment Agency Standing Advice
- Mendip Strategic Flood Risk Assessment (2020)
- MDC Marketing and Business Evidence to Support Planning Applications SPD (March 2017)
- National Character Area Profile: 142. Somerset Levels and Moors (NE451), published by Natural England on 20 June 2013 NCA Profile:142: Somerset Levels and Moors - NE451 ([naturalengland.org.uk](http://naturalengland.org.uk))
- Landscape Assessment of Mendip District (1997)

- Mendip Landscape Character Assessment (July 2020)

### The National Planning Policy Framework 2023

The revised National Planning Policy Framework (NPPF), last update December 2023 sets the Governments planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

2. Achieving sustainable development
4. Decision-Making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making efficient use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

## **10. Material Planning Considerations**

10.1 The main planning issues relevant in the assessment of this application are as follows:

- Principle of Development
- Adjacent Land Use
- Design of the Development and Impact on the Street Scene and Surrounding Area
- Degree of Reconstruction
- Impact on Neighbouring Amenity
- Impact on Ecology
- Assessment of Highway Issues
- Impact on Public Rights of Way
- Flood Risk and Land Drainage
- Sustainability
- Land Contamination
- Refuse Collection
- Employment

10.2 Principle of Development

10.3 The Local Planning Authority (LPA) is not currently able to demonstrate a five-year supply of housing land. This means that policies in the Local Plan that are related to the delivery of housing, Core Policy 1 (CP1) and Core Policy 2 (CP2), are given reduced weight. As a consequence of not being able to demonstrate a five-year supply, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the National Planning Policy Framework (NPPF) applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably

outweigh the benefits when assessed against the NPPF policies taken as a whole or where its specific policies indicate that development should be restricted. Footnote 7 states that this includes policies relating to areas at risk of flooding.

- 10.4 Core Policy 1 (CP1) of the adopted “Mendip District Local Plan - Part 1” says that to enable the most sustainable pattern of growth for Mendip District the majority of development will be directed towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). Paragraph 1c states: “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: Sustaining Rural Communities.”
- 10.5 Core Policy 4 (CP4) (4c) says that rural settlements and the wider rural area will be sustained by “supporting proposals for development of the rural economy as set out in Core Policy 3 which, involve the conversion of existing buildings for an economic use as considered under Development Policy 22.”
- 10.6 The site is within Flood Zone 3. Without evidence to the contrary the proposal is considered to be within Flood Zone 3b, flood plain, where only water compatible or essential infrastructure are permitted. The NPPG states that where flood risk is a consideration decision makers should avoid the substitution of lower vulnerability uses for higher vulnerability uses. The proposal, in the absence of an accurate site-specific flood risk assessment, has failed to demonstrate that the development is appropriate to the local context and the other criteria of DP7. Development in a flood plain should result in no loss of floodplain or block flood water flow routes. They must also be safe for users and not increase flood risk elsewhere. The conversion of the buildings would therefore not only impede flood flow routes but also introduce a ‘more vulnerable’ residential use into an area at high risk of flooding. The proposal is not considered essential for regeneration and does not meet a demonstrable specific local requirement, contrary to Development Policy 23.
- 10.7 Development Policy 22 (DP22) states that the reuse and conversion of a building in the countryside (outside of defined development limits) for residential use will be given favourable consideration where it would lead to an enhancement to the immediate setting, and satisfy the criteria of clauses 1 a-e. In addition, the proposal, as will be described in further detail below, is not considered to satisfy the criteria of DP22 by virtue of the degree of construction that would be required to achieve the conversion.
- 10.8 For these reasons, the proposal is considered to have significant and demonstrable adverse impacts, and would be contrary to Development Policies 7, 22 and 23, the National Planning Policy Framework and National Planning Practice Guidance. Further consideration of the impacts of the proposal on the character and appearance of the area, neighbouring amenity,

ecology, highway safety, landscape, trees, and land drainage are covered in more detail below.

## 10.9 Adjacent Land Use

10.10 To be in accordance with DP22 (clause 1a) the proposal should not prejudice the use of adjacent land and premises, particularly where such use entails agricultural or other land-based operations. Given the previous conversions, and dominant residential use in the context, it is not considered that the proposal would significantly prejudice the continued agricultural use of the surrounding land and buildings over and above the existing situation.

## 10.11 Design of the Development and Impact on the Street Scene and Surrounding Area

10.12 Development Policy 1 (DP1) of the Local Plan states that proposals should contribute positively and respond to the local context and maintain the character and appearance of the surrounding area. The street scene, landscape/townscape, views, scenery, boundary walls or hedges, trees, rights of way and other features collectively generate the distinct sense of place and local identity. Decisions should consider the efforts made to avoid, minimise, and mitigate negative effects, and the need for the proposal to take place in that location.

10.13 Development Policy 4 (DP4) states proposals for development that would, individually or cumulatively, significantly degrade the quality of the local landscape will not be supported. Outside designated landscape areas, proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features of the Landscape Character Areas.

10.14 Development Policy 7 (DP7) of the Local Plan relates to the design of the p proposal. DP7 states the Local Planning Authority “*will support high quality design which results in usable, durable, adaptable, sustainable and attractive places*” and that “*proposals for new development should demonstrate that t they... are of a scale, mass, form and layout appropriate to the local context.*” DP7 is supported by a Supplementary Planning Document (SPD) which provides more detail about what the policy requires. DP7 is consistent with Part 12 of the NPPF, which states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

10.15 DP22 states that the reuse and conversion of a building in the countryside (outside of defined development limits) for residential use will be given favourable consideration where it would lead to an enhancement to the immediate setting, and:

*b) the design of the building, and associated development required to facilitate its reuse, respects its surroundings and does not harm the*



*wider landscape character of the area, or have an adverse impact on the transport network*  
*c) in the case of a traditional building, the proposal is sensitive to its fabric and character*

- 10.16 The NPPF, paragraph 135 a), states that “*decisions should ensure that developments ... will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development... and (135 f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users...*”
- 10.17 The existing buildings have an agricultural character typical of rural development that surround a courtyard of concrete and gravel. Most of the buildings are single storey, apart from the north section of ‘building 2’ or proposed ‘Plot 1.’ The buildings have either single block, timber or corrugated panel walls, and corrugated panel roofs.
- 10.18 The proposed conversion is sympathetic to the existing aesthetic, utilising similar external materials. Many of the fenestrations follow the existing patterns, with simple glazed panels in keeping with the existing character.
- 10.19 The design of the building, and associated development required to facilitate its reuse, respects its surroundings, and does not harm the wider landscape character of the area. The proposal accords with Development Policies 1, 4, 7 and 22 of the adopted Local Plan Part 1 (2014) in this respect.
- 10.20 Degree of Reconstruction
- 10.21 DP22 (clause 1d) requires the consideration of the degree of change required for the conversion and stipulates that conversions should not require major or complete reconstruction. The “Structure” section of the Design and Access Statement submitted asserts that the building is capable of being converted to residential use. No existing or proposed load calculations have been supplied.
- 10.22 Considering whether the building works require major or complete reconstruction is based on a professional judgement.
- 10.23 The existing buildings are largely portal framed with timber and corrugated sheet cladding and some low-level single skin blockwork walls, and corrugated sheet roofing. The new dwellings would need to meet current Building Regulations. The proposal would require new roofs, doors and windows. The extent of new walls is not clear within the information submitted; however, the proposed external materials are also apparently different from the existing.
- 10.24 Given the flood risk in the area, the walls would need to sustain lateral loads imposed by flood water. The flood mitigation measures proposed (Flood Risk Assessment & Drainage Strategy paragraph 4.2) states that “*new internal walls will be constructed of materials with low water penetration, good drying*

*ability, and good retention of pre-flood integrity.*” It is not clear from the information submitted if the “*new internal walls*” refer to internal space division, or the internal walls to be constructed against the existing envelope, as described in section 2.3 of the Design and Access Statement.

- 10.25 The converted building would only utilise the minimal skeletal form of the structure, where it has not been demonstrated that the proposed loads, including those in a flood event, could be sustained without further structural elements. The existing barn would simply be retained as a shell around or sandwiched between a new build.
- 10.26 Taking all of the above into consideration, and without evidence to the contrary, the amount of building works required to convert the barns is considered to amount to major reconstruction. Therefore, the proposal has failed to demonstrate an acceptable degree of construction and as such would not be in accordance with Development Policy 22 of the adopted Local Plan Part 1 (2014).
- 10.27 Impact on Neighbouring Amenity
- 10.28 The amenity to be achieved by the proposal should comply with Development Policies 7 and 8 of the Local Plan and Part 12 of the NPPF. The considerations in relation to these policies include the design, scale, massing, and siting of the proposed development, and that 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 NPPF, paragraph 135 f), states that decisions should ensure that developments create places “*which promote health and well-being, with a high standard of amenity for existing and future users.*” Therefore, the amenity of existing and future occupants in these respects are considered.
- 10.29 In addition, an SPD has been produced in relation to Development Policy 7. Paragraph 5.1 states that “*Development should not result in ongoing nuisance to existing occupiers or occupiers of the new buildings.*”
- 10.30 The proposal would allow adequate amenity space for the proposed dwellings, without harmfully impacting on each other. The proposed dwellings are sufficiently distant from existing dwellings to not cause harmful amenity impacts on them.
- 10.31 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. In these respects, the proposal accords with Development Policy 7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

### 10.32 Impact on Ecology

- 10.33 The site is within and adjacent to several Priority Habitats (2 4, Traditional Orchard 3 4). DP22 (clause 1e) states that any bat roost present is incorporated or replaced, and external vegetative structure supporting is maintained or replaced within the scheme. DP5 states that the planning process will be used to protect, enhance, and restore Somerset's Ecological Network within Mendip. DP6 applies to sites within Bat Consultation Zones and requires applicants to provide all necessary information to enable compliance with the Habitats Regulations, including any necessary survey work, reports and avoidance/mitigation measures.
- 10.34 A Preliminary Ecological Appraisal was submitted with the application. This did not identify bat roosts or bird nests, but suggested biodiversity mitigation measures. These details could be secured by conditions.
- 10.35 In addition, in accordance with paragraph 186d of the NPPF LPAs should seek opportunities to improve biodiversity in and around developments. These details could also be secured by conditions.
- 10.36 The proposed development will not have an adverse impact on bats or other ecology. The proposal accords with Development Policies 5 and 6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

### 10.37 Assessment of Highway Issues

- 10.38 There are no proposed changes to the access for the site. Given the existing mixed residential and commercial use, it is not considered that the proposal would result in a significant increase in traffic movements that would be prejudicial to highway safety.
- 10.39 The proposal includes the provision of 18 parking spaces. SCC Parking Standards requires 4 parking spaces for a 4-bedroom dwelling in this location. The development therefore requires 16 parking spaces for the four dwellings. In addition, the proposal includes turning space, in accordance with Standing Advice, to allow vehicles to enter and leave the site in forward gear.
- 10.40 The council's Electric Vehicle Charging Strategy (EVCS) states electric vehicle charging points should be provided for all new developments. Each charging point should be at least 7kW, an untethered connection i.e., only a socket without a built-in cable, and capable of Mode 3 charging.
- 10.41 It is considered the proposal requires a total of 4 electric vehicle charging points and the installation of 4 (passive) cable routes. These details could be secured by condition.
- 10.42 The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Development Policies 9

and 10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

#### 10.43 Impact on Public Rights of Way

10.45 The site runs adjacent to a Public Right of Way (PROW), identified as public footpath SM 16/27. The PROW Officer did not object to the proposal but highlighted the responsibilities of developers to protect the health and safety of users of the PROW. If approved, this information would be included on the decision notice.

10.46 Subject to the advice provided it is considered that the proposal would safeguard health and safety standards of the Public Rights of Way. The proposal accords with Development Policies 7 and 9 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

#### 10.47 Flood Risk and Land Drainage:

10.48 DP7 states that developments should “*protect the amenity of users of neighbouring buildings and land uses and provide a satisfactory environment for current and future occupants*” and “*meet the access needs of a wide range of users...*” Amenity is defined in the Local Plan glossary as “*those qualities of life enjoyed by people who can be influenced by the surrounding environment in which they live...*”

10.49 Development Policy 8 (DP8) states that “*all development proposals should minimise, and where possible reduce all emissions and other forms of pollution*”. Point 1 of DP8 states “*Development (either cumulatively or individually) will be required to demonstrate that it does not give rise to unacceptable adverse environmental impacts on [amongst other things]*”

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

10.50 Development Policy 23 (DP23) states that “*development will follow a sequential approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding. The development of sites with a sequentially greater risk of flooding will only be considered where essential for regeneration or where necessary to meet specific local requirements.*” The Local Plan glossary defines a sequential approach as “*a planning principle that seeks to identify, allocate or develop certain types or locations of land before others.*”

10.51 The Mendip Strategic Flood Risk Assessment (MSFRA), paragraph 4.2, states “*If a proposed development is shown to be in Flood Zone 3, further investigation should be undertaken as part of a detailed site-specific FRA to define and confirm the extent of Flood Zone 3b.*” The Environment Agency advises that a precautionary approach should be applied, so in the absence of evidence to the contrary, Flood Zone 3 should be considered Flood Zone 3b; a functional floodplain. Development in Flood Zone 3b is prescribed (table 3-2: Flood zone descriptions) as “*Only water compatible and essential*

*infrastructure are permitted in this zone and should be designed to remain operational in times of flood, resulting in no loss of floodplain or blocking of water flow routes. They must also be safe for users and not increase flood risk elsewhere. Essential Infrastructure will only be permitted if it passes the Exception Test.”*

- 10.52 The proposal, for the purposes of providing the appropriate definitions, is not essential infrastructure; dwellings are a ‘more vulnerable’ use; and land and buildings used for agricultural purposes are a ‘less vulnerable’ use. The application has not demonstrated that the proposal is essential for regeneration, or that there is a specific local requirement that needs to be met.
- 10.53 The NPPG (Flood Risk and Coastal Change, paragraph 4) states decision makers should “*avoid substituting lower vulnerability uses for higher vulnerability uses. Tensions between flood risk mitigation measures and other planning matters, do not justify unsafe development.*” Paragraph 5 states the development should be safe for its lifetime, including the safety of people within a building. These considerations include “... *the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood*”, “*the structural safety of buildings*” and “*the impact of a flood on the essential services provided to or from a development.*”
- 10.54 As stated above, the structural safety of the buildings and the appropriate protection of future occupants has not been demonstrated.
- 10.55 The NPPF (paragraph 173) states “*When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) any residual risk can be safely managed; and*
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 10.56 The NPPG (Flood Risk and Coastal Change, paragraph 3) states that “*The National Planning Policy Framework sets out strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, new development should not be allowed. The main steps to be followed in addressing flood risk are set out below, starting with assessing and then avoiding flood risk. The steps are*

*designed to ensure that if there are lower risk sites available, or a proposed development cannot be made safe throughout its lifetime without increasing flood risk elsewhere, it should not be permitted. Measures to avoid, control, manage and mitigate flood risk should also not increase flood risk elsewhere.*

- 10.57 The change of use of buildings does not require sequential or exception tests; this is because the development is already where it is. The proposal does require a site-specific flood-risk assessment. The NPPG (paragraph 20) states *“The objectives of a site-specific flood risk assessment are to establish:*
- whether a proposed development is likely to be affected by current or future<sup>1</sup> flooding from any source;*
  - whether it will increase flood risk elsewhere;*
  - whether the measures proposed to deal with these effects and risks are appropriate; ...*
- NPPG paragraph 21 states *“The information provided in the flood risk assessment needs to be credible and fit for purpose.”*
- 10.58 The Environment Agency considered the flood-risk assessment submitted and found it to be inadequate, so objected to the proposal. The assessment was found to be based on incorrect data, and so does not correctly identify the risks on the site. In addition, the Environment Agency generally resist single storey residential dwellings as they are not appropriate in Flood Zone 3 as there is no upper storey to provide a refuge space. Two storey accommodation could be acceptable but would have to be clearly demonstrated in a site-specific flood-risk assessment based on correct data.
- 10.59 Foul drainage is proposed to be directed to a Package Treatment Plant (PTP), which is considered the most appropriate solution in accordance with the foul drainage hierarchy where a main sewer is not available. Package Treatment Plants must be installed in accordance with Building Regulations (Approved Document H, H2), which states *“Any septic tank and its form of secondary treatment, other wastewater treatment system or cesspool shall be so sited and constructed that... ..it will not contaminate any watercourse, underground water or water supply...”* The guidance for performance states: *“In the Secretary of State’s view the requirements of H2 will be met if... ..wastewater treatment systems and cesspools are sited and constructed so as not to... ..be in an area where there is a risk of flooding.”*
- 10.60 Given that the disposal of the wastewater that will be generated by the development is essential to its ongoing use the details of the wastewater management are considered to go to the heart of the application. The red line of the application is entirely within Flood Zone 3, apart from a section of the shared access, which would not be an appropriate location for the PTP. There is an area of land within the blue line that is not within a Flood Zone, where it may be possible to locate the proposed PTP, but in the absence of details to demonstrate that the PTP can be entirely constructed here the application has failed to demonstrate appropriate foul drainage can be achieved. Further to

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<sup>1</sup> The NPPG (Flood Risk and Coastal Change, paragraph 6) states *“Residential development can be assumed to have a lifetime of at least 100 years.”*

this, Local Planning Authorities should not approve planning applications where they would not be able to be implemented.

10.61 Taking all of the above into consideration, the proposed development has failed to demonstrate it will not have an adverse impact on public health and safety, flood risk, or represent a danger to water quality. The proposal is therefore contrary to Development Policies 8 and 23 of the adopted Local Plan Part 1 (2014) and Parts 14 and 15 of the National Planning Policy Framework.

10.62 Sustainability

10.63 The conclusion of the Flood Risk Assessment & Drainage Strategy (section 7) states that the development can be undertaken in a sustainable manner. As discussed above, the calculations for the FRA are based on incorrect information, and so this conclusion cannot be ratified.

10.64 The proposal has not demonstrated sustainability to be in accordance with Development Policy 7 of the adopted Local Plan Part 1 (2014), the Supplementary Planning Document Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (March 2022), and Part 12 of the National Planning Policy Framework.

10.65 Land Contamination

10.66 The previous use of the site has the potential for hotspots of contamination. However, the Contaminated Land Officer did not object to the proposal. An informative note was suggested to be added to the decision notice. If approved, the advice would be included as described.

10.67 Subject to the advice of the Land Contamination Officer, the proposed development would not have an adverse impact on site workers or future occupants and users of the site. The proposal accords with Development Policy 8 of the adopted Local Plan Part 1 (2014) and Parts 11 and 15 of the National Planning Policy Framework.

10.68 Refuse Collection

10.69 The site is considered capable of providing adequate refuse and recycling storage for the proposed dwellings, in accordance with the Somerset Waste Core Strategy.

10.70 The Somerset Waste Partnership raised concerns regarding the distance that future residents would need to convey their rubbish and recycling for roadside collection. They advised that space for refuse and recycling collection was provided at the access. The access is wide and could accommodate this without encroaching on the highway. However, given the other impacts of the proposal, further negotiations were not undertaken. Whilst not ideal, the lack of a specified area is not significantly harmful to warrant refusal on its own.

## 10.71 Employment

- 10.72 The use of the site was specifically restricted previously when the use changed from agricultural under planning application 067193/006. This application allowed the change of use of the buildings to a mixed use for the marquee business and ancillary domestic storage and removed permitted development rights. It should also be noted that the approval was accompanied by a Section 106 Legal Agreement (S106) to tie the existing dwelling and the buildings.
- 10.73 The planning condition does not exclude the submission of an application for a change of use. The condition merely requires an application so that the impacts of the proposed use can be fully consulted on and assessed, unlike a 'permitted' change of use. In addition, an S106 agreement can be modified.
- 10.74 Development Policy 20 (DP20) states: "*proposals for the development of land or buildings previously, or currently used for, activities falling within Use Classes B1, B2 or B8 will be supported where it can be demonstrated that:*
- a) *the re-use for non-B class employment generating uses or for mixed-use schemes will deliver comparable employment generation (based on number of jobs created) or wider economic benefit, and;*
  - b) *the proposal would not prejudice the Council's wider employment land strategy as summarised in Core Policy 3.*
- In determining any application for planning permission for such a proposal, the Council will balance the application of this policy against the need to secure wider regeneration objectives in that area and the need to overcome any local environmental impacts (including those related to transport) of employment uses in the vicinity of the site concerned as considered under Development Policies 8 and 9 of this Local Plan."*
- 10.75 Further to this, the Marketing and Business Evidence to Support Planning Applications SPD sets out "*the expectations where evidence of marketing or business viability is required to support a redevelopment or change of use application*" in relation to DP20
- 10.76 Development Policy 8 (DP8) point 1 states: "*Development (either cumulatively or individually) will be required to demonstrate that it does not give rise to unacceptable adverse environmental impacts on [amongst other things]*
- *the quality of water resources, whether surface river or groundwater [and]*
  - *public health and safety".*
- 10.77 The ancillary use, also tied to the dwelling, cannot be said to be redundant; however, the division of the site use was not prescribed within the plans or condition on 067193/006 but rather either or both uses are lawful. The marquee business use is an activity falling within Class B.
- 10.78 The Design and Access Statement submitted states that the Marquee business no longer operates from the site. Therefore, the Marketing and Business Evidence to Support Planning Applications SPD, section 4 applies.



No substantive evidence with regard to DP20 or the SPD has been submitted for the application.

10.79 Therefore, insufficient information has been submitted to demonstrate that the site is no longer economically viable and would not be able to deliver comparable employment. The proposal is contrary to Development Policy 20 and the MDC Marketing and Business Evidence to Support Planning Applications SPD (March 2017).

## **11. Planning Balance and Conclusion**

11.1 The proposed development, as has been outlined above, would require major reconstruction, and would lead to poor amenity for the future occupiers of the converted buildings due to the flood risk at the development, located in Flood Zone 3. It has also been established that insufficient information has been submitted to assess the impact of the flood risk on the future construction of the proposal, and ongoing impacts on future occupiers. The proposal is considered to be unjustified and unsustainable development outside development limits.

11.2 The proposal would result in the loss of an employment site, in the rural economy, where the constraints of the site direct developers to a 'less vulnerable' use.

11.3 These harms are considered to be significant.

11.4 The proposal could contribute a benefit of four additional houses, where there is a shortfall in housing land supply. The development would secure socio-economic benefits both through construction investment and by the contribution future occupiers would make to the local economy and to supporting local services. However, the former would be temporary and would not necessarily benefit the local area as there is no mechanism to secure the use of local contractors. Given the size of the scheme the latter would be modest in scale. As such, this benefit can only be given limited weight.

11.5 Taking all the above into consideration, it is not considered that the minimal benefits identified would outweigh the significant harms identified.

## **RECOMMENDATIONS**

### **Recommendation: Refuse application for the following reasons:**

1. The proposed development lies in the countryside outside defined development limits where development is strictly controlled. The proposal has failed to demonstrate that it complies with the Council's policy for the reuse and conversion of rural buildings by demonstrating that the buildings are redundant and could not be used for an alternative economic use and by virtue of the major reconstruction required to convert the buildings. The proposal is therefore considered to be contrary to the provisions of Core Policies 1, 2, and 4, and

Development Policies 20 and 22 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014), and the Marketing and Business Evidence to Support Planning Applications Supplementary Planning Document.

2. The proposed change of use would result in a 'more vulnerable' use in Flood Zone 3 where such a change of use should be avoided, and in the absence of a site-specific flood risk assessment, has failed to demonstrate that adequate flood mitigation and protection measures can be achieved without the need for major or complete reconstruction. The site is considered neither essential for regeneration nor meet a demonstrable specific local requirement. Therefore, the application has failed to demonstrate that the proposal makes satisfactory provision for flood risks on the site and is contrary to Development Policies 8 and 23 of the adopted Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and the National Planning Policy Framework, with particular regard to Part 14.
3. The development proposed will increase foul drainage from the site; however, it has not been adequately demonstrated that a feasible foul drainage management strategy can be installed within the application site outside of a Flood Zone, in the interests of not endangering water quality. As such the proposal is contrary to Development Policies 8 and 23 of the adopted Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and the National Planning Policy Framework, with particular regard to Part 14.

### **Informatives**

1. This decision relates to drawings 1771/010, 1771/011, 1771/020, 1771/030 rev A, 1771/031 rev A, 1771/032 rev A, 1771/033 rev A, 1771/040 rev A, 1771/041 rev A, 1771/042 rev A, and the Design, Access and Planning Statement, Flood Risk Assessment & Drainage Strategy, Preliminary Ecological Appraisal Report, and Tree Protection Statement submitted for the application validated on 25.10.2023, and drawings 1771/001 rev B, 1771/002 rev B, 1771/003 rev D received 03.11.2023.
2. 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.