

Case Officer	Carlton Langford
Site	Land At 355763 143568 Upper Wellesley Lane Dulcote Wells Somerset
Application Number	2019/1577/FUL
Date Validated	26 June 2019
Applicant/	Professor AJ and Dr KJ Andrew Bradley
Organisation	Quality Milk Management Services Ltd
Application Type	Full Application
Proposal	Proposed new dwelling, new access, and associated development.
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

What3words: **newlywed.publish.migrants**

Referral to Planning Board:

Updating Report.

This application is being brought back for consideration following its deferral at the meeting of the Mendip Planning Board meeting on the 22nd April 2020.

At the meeting, Members remained unclear as to whether the applicant had a case for being a rural worker and thus demonstrating an essential need to live in the countryside. One Member suggested that the application be deferred in order for the applicant to come back with more information about the exact nature of the business and their reasons for having to live on site.

It was proposed that the application be deferred for up to 6 months in order to give the applicant an opportunity to clarify their case to demonstrate essential need before the application is returned to the Planning Board with detail about the exact nature of their business.

Subsequent to this application being deferred, a change in legislation occurred with a letter from Natural England (NE) being received advising that local planning authorities need to assess the impact of any new residential development that falls within the catchment area of the Somerset Levels and Moors SPA Ramsar.

The letter explained that where the conservation status of a protected natural habitat is unfavourable, the possibility of authorising activities which may subsequently compromise the ability to restore the site to favourable condition and achieve the conservation objectives are 'necessarily limited'.

Having regard to these changes in legislation, additional residential units within the Ramsar catchment are likely to add phosphates to the designated site via the wastewater treatment effluent and it will be up to the applicant to demonstrate that the proposed development would not cause harm to the Somerset Levels and Moors Ramsar site with particular regard to the discharge of phosphates.

The applicant has since sought to demonstrate neutrality in terms of any phosphate outfall from the development and sought to satisfy the request of the Planning Board in providing additional information to demonstrate that there is an essential need for a rural worker to live permanently at their place of work in this isolated location.

In respect of demonstrating an essential need for a rural worker to live permanently on site, the applicant maintains that the application site, to include the 40 acres of agricultural land at Wellesley, is ideally suited for research purposes undertaken by their company, due to the history of non-intensive management and rich diversity of the pasture, which has persisted because of the site's SSSI status. Once established, Wellesley will be unique as a research resource, offering a site for long term research that could not be relocated or undertaken elsewhere, confirming their long-term business intentions.

The statement goes on to suggest that a person will be required to live permanently on site for research purposes together with the day-to-day management of livestock, observing and caring for 30 to 40 cattle/sheep, rising to over 100 units of livestock in the future.

However, no clear evidence has been submitted regarding research methodology, with specific explanation as to why a person might need to live permanently on site rather than merely carryout the research during normal working hours from the existing site which is only a 20 min journey away.

Furthermore, the associated 40 acres of agricultural land within the SSSI will be operated under a Higher Tier Countryside Stewardship Agreement with Natural England, a requirement of farming SSSI land and a requirement of securing an offset to demonstrate phosphate neutrality necessary for the installation of a Package Treatment Plant (PTP) for the proposed dwelling. One requirement of the Higher Tier Countryside Stewardship Agreement is a restriction in livestock units which in this case can be no more than 28.9 units for the 40-acre site and therefore, the suggestion that the site might support over 100 livestock units to further support the applicant's livestock 'care' case, is not considered to justify the functional/essential needs test that policy DP13 establishes.

With such small stock numbers, it would be expected that for the day-to-day operations on site and even in times of slightly more intensive activity during calving, there would be little need for a rural worker to live permanently on site.

In addition Policy DP13 sets out clear criteria for such accommodation which include not only demonstrating an essential/functional need for the accommodation but for permanent dwellings, the enterprise needs to have been established on the unit for at least three years and that that enterprise, on that unit of land, is currently financially sound and has a clear prospect of remaining so.

Currently, the site does not support a rural enterprise contrary to the requirement of Policy DP13 and whilst, the applicant has a profitable business, it currently has no connections with the application site and therefore, cannot be used to support a case for permanent rural workers accommodation at this site.

The Policy is clear that for new enterprises, the Council will **only** grant permission for temporary accommodation but again only where an essential functional need can be demonstrated.

In conclusion, the applicant has failed to provide any further conclusive evidence to support the proposal for permanent rural workers accommodation on this site contrary to Policy DP13 of the LP and the Policy within the National Planning Policy Framework (NPPF). The accommodation is not only unjustified but would result in an isolated dwelling within the countryside which both National and Local Plan Policy seek to avoid being recognised as unsustainable forms of development.

With respect to demonstrating neutrality on site due to the need to install a foul drainage scheme (PTP scheme in this case) to serve the proposed dwelling, this has been achieved but subject to the site being managed under a restrictive Higher Tier Countryside Stewardship Agreement as already described. As such, it is concluded that the proposed development would not cause harm to the Somerset Levels and Moors Ramsar site with particular regard to the discharge of phosphates.

With respect to the additional information as requested by the Mendip Planning Board, there remains no clear justification for the proposed development and the recommendation that the application be refused for the reasons set out in the original case officer's report below remain valid.

Description of Site, Proposal and Constraints:

The application relates to 10 hectares of land off of Upper Wellesley Lane, near Dulcote. The site is in a prominent location, on the side of a hill, which is a locally designated Special Landscape Feature "Worminster Down/Launcherley Hill". The site is accessed off of Upper Wellesley Lane, which is an unclassified road.

The site is within a statutory designated Site of Special Scientific Interest (SSSI): Twinhills Woods and Meadows.

The site is also within four SSSI Impact Risk Zones, and designated a statutory Priority Habitats, including grasslands, meadows, and woodlands, and a Local Wildlife Site.

To the south of the site, outside the red line of the application site is Twinhills Wood, which is a designated Ancient Woodland. To the west of the site is a public right of way (WS 10/84)

The application seeks full planning permission for the erection of a dwelling, formation of an access track and associated development.

Relevant History:

2019/0729/AGB - Application for prior notification of agricultural development for a proposed building. Prior approval not required 11.04.2019.

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

St Cuthbert Out Parish Council: Approval

Highways Development Officer: Standing advice

Land Drainage: No Objection subject to conditions

- Surface water drainage details
- Foul drainage details

Ecology: No objection subject to conditions – final comments below

08.10.2019 - Holding objection pending further information, particularly with regard to the SSSI and lighting/glass

- Twinhill Woods and Meadows SSSI is designated for botanically diverse neutral and calcareous grassland and ancient semi-natural woodland which notably supports 26 species of butterfly including grizzled skipper, white-letter hairstreak, brown argus, marbled white, silver-washed fritillary and marsh fritillary
- Automated bat activity surveys recorded greater and lesser horseshoe bats passing along the western hedgerow
- A scheme for the restoration of the grassland as a result of the development has not been submitted. There is no certainty that the land around the building would not be laid to lawn of less benefit to wildlife than that currently.
- The rationale for the development mentions that a S106 tying the house to the 40 acre block of land to secure future management and minimise the risk of exploitation and further degradation of the SSSI. However, no details of how it is to be managed in the future are given
- Bramble scrub and ruderals for example supports an abundance of moths which are hunted by horseshoe bats. Bat surveys were limited to a late summer survey only and as horseshoe bats make use of habitat depending on the seasonal availability of prey species it cannot be certain that the use of the site at other times of year
- The report states that *'Hedgerows will continue to be managed in the interests of wildlife conservation once the proposed residence is occupied'*. Again this cannot be guaranteed for the duration of the development given the private ownership
- A feed and equipment shed in a confirmed bat roost whilst the other structures have negligible potential for bats. The shed however, shows signs of long use as a night roost by Greater Horseshoe bats and therefore functionally supports the conservation objectives of the North Somerset and Mendip Bats SAC
- A new cool tower roost is proposed within 50 metres of the existing roost shown in Figure 3 but not included in the report. Further details are required
- Of concern is that external lighting has the potential to adversely affect the behaviour of horseshoe bats and may prevent individuals from accessing hunting patches as well as attracting prey out of the reach of these light sensitive species
- In addition the house has first floor terraces which may also produce light spill. Also of concern is the large windows in the elevations of the proposed dwelling, which are likely to cause light spill on to features used by horseshoe bats
- The report states that *'The glazing will utilise 'smart glass' which will switch to opaque mode at dusk and reduce direct glare from interior light sources as well as reducing overall light spill from*

the interior'. However, no specification is given. In addition the large windows pose a risk to bird strike during the daytime

20.11.2019 – No objections subject to conditions

- It is confirmed that the site is not within the North Somerset and Mendip Bats SAC Bat Consideration Zone (BCZ) for greater horseshoe bats
- It does not lie within that for lesser horseshoe bats but is within the technical guidance for the SAC in the banding for the Favourable Conservation Status for lesser horseshoe bats associated with the SAC hibernating roosts
- As less than 1% of the hibernating lesser horseshoe bat population would be affected the application does not require a Habitats Regulations Assessment
- A night roost for greater and lesser horseshoe bats was recorded by Crossman Associates in a concrete block feed shed. As this would be destroyed a European protected species licence will be required from Natural England.
- A new roost will be required to replace that lost. A new location is shown in Figure 3 of the ecology report. However, it is considered too far from the existing roost and needs to be located near the western boundary.
- The recommendations in the Ecological Appraisal and Bat Surveys and the additional information given in the ecology response by Crossman Associates should be followed and secured by conditions.
- Concerns remain about the large area of glass windows on all elevations causing risk of bird strike in the daytime as well as producing additional light spill at night.
- Details of the arrangements between the applicant and Natural England for managing the SSSI have now been submitted and a condition regarding the sites future management is no longer required.

Natural England:

19.08.2019

- The proposed development would result in a reduction in the extent of the SSSI.
- Further justification is needed to demonstrate that the benefits of the development could outweigh the permanent loss of part of this SSSI
- application site also lies within Band B of the bat consultation zone, as identified in the North Somerset & Mendip Bats SAC Guidance
- In the absence of adequate bat surveys we do not consider it is possible to determine the potential impacts on the SAC or the likely efficacy of any proposed mitigation measures
- any introduction of artificial lighting would be of particular concern

14.10.2019

- We note that the bat survey that has now been provided and we agree with Somerset Council's ecologist that a Habitats Regulations Assessment is needed
- The survey shows that there is activity by Greater and Lesser Horseshoe bats including the night roost in the store
- It is proposed that this store is replaced with a new bat roost to the east of the current location

- Natural England would question both whether the old roost needs to be destroyed and also the location of the new roost unless the commuting routes are strengthened and whether it should replace the building which is in use by the bats at present
- With regard to Twinhills Wood SSSI, we have had engagement with the applicants on a number of occasions over the past several years to discuss improvements in management of that could be made
- We consider that securing beneficial management proposals through this application would have a net positive effect on the SSSI and outweigh any the direct loss of a small portion of the site which does not contain interest features
- Details of mitigation leading to an improvement of the SSSI's condition should be agreed in advance and could maybe be included as a planning condition
- You have also requested advice on the whether the need to live on site is a justification for allowing housing outside of normal development boundaries. This is an arguable point and although we do consider that the applicant has some basis for the argument in that the ability to live on site would better enable the stock management that is needed, many people do manage their sites remotely

16.12.19

- We have no further comments to make other than to agree with the Somerset Council Ecologist, Larry Burrow's comments of 22nd November that a HRA is not necessary. We concur with his other comments regarding a potential new bat roost although the letter from the applicants on 24th October states that the existing structure will be remaining and the alternative roost will not be built which is welcomed.

Somerset Wildlife Trust: No response

Campaign to Protect Rural England: Objection

- Not appropriate location for development
- Not affordable housing
- Design statement does not demonstrate robust proven essential need
- Alternative farm situations closer to Wells could be utilized for research and observation of cattle
- Harm to SSSI
- Visible from the Monarch's Way PRoW to north, particularly when there is no leaf cover
- Contrary to NPPF (para 170 (a) and (b)) where development should contribute to and enhance the local environment
- This is a greenfield site as 'bungalow' no longer habitable
- Harm from light pollution

Mendip Conservation Advisory Panel: Objection

- Farming consultancy not specific to site
- Development in open countryside
- Harm to landscape in Special Landscape Character Area
- No extenuating circumstances

Local Representations:

2 letters of support have been received raising the following planning issues:

- Surrounded by woodland and wildlife
- Allow site management of SSSI, and wild flower meadows
- Prevent travel to the site
- Agricultural tie proposed would prevent unsuitable development
- Sympathetic design that won't be seen from the road
- Site not part of the SSSI, and so no SSSI would be lost

Additionally, the following issues not relevant to planning were raised:

- Wonderful site
- Wonderful views

Full details of all consultation responses can be found on the Council's website www.mendip.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 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)
- Somerset Waste Core Strategy

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

- CP1 (Spatial Strategy)
- CP2 (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)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP13 (Accommodation for Rural Workers)
- DP23 (Managing Flood Risk)

Other possible Relevant Considerations (without limitation):

- 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)
- (RTPI) Biodiversity in Planning – RTPI Practice Advice (November 2019)
- (DEFRA) Biodiversity net gain: updating planning requirements
- BS: 42020:2013 British Standard for Biodiversity – Code of Practice for Planning and Development PI (BSI, 2013)

Assessment of relevant issues:

Principle of the Use:

The proposal is for a new detached dwelling required to manage the 40 acre block of land within the applicant's ownership.

The proposal cannot be described as your traditional rural workers accommodation which might support your traditional rural enterprise such as a farm and the applicant has not suggested that the proposal might in any way accord with such policy as set out within the National Planning Policy Framework or Local Policy for the provision of such accommodation. It is the applicant's argument is that to manage the 40 acres much of which being a site of special scientific interest will require considerable time and resource which can only practically be delivered and realised by the applicants when they are living on site as opposed to 20 minutes and 7.5 miles away in Rodney Stoke and therefor any harm brought by the development would be outweighed by the enhanced biodiversity benefits in managing the land.

Notwithstanding the lack of evidence to support the proposal under either National or Local Plan Policy for rural workers accommodation (Paragraph 79 of the NPPF and Policy DP13 of the Local Plan), it remains that the application site is situated within the open countryside where development is strictly controlled but may exceptionally be permitted in line with the provisions set out within Policy CP4 of the Local Plan where the development would sustain the a community.

Having regard for the application as submitted and the criteria for exception development which might sustain a rural community in accordance with Policy CP4, the proposed dwelling is not within one of the District's Primary or Secondary Villages where there is a presumption in favour of new development which might support local services and facilities, the accommodation is not affordable housing secured for the benefit of a community and as already established, the accommodation would not be an occupational dwelling where there is a proven and essential functional need, to support agricultural, forestry or other rural-based enterprises as set out within DP13. To this end, the proposal fails to accord with the Council Core principles for bring forward sustainable development having regard for Policies CP1, CP2 and CP4 of the Local Plan.

In assessing the proposal against the National Planning Policy Framework, the site is in open countryside, outside of defined settlement limits, and some distance from the nearest defined settlement. Indeed, the site is considered to be truly isolated from any development. The NPPF states that isolated homes in the countryside should be avoided unless special circumstances apply, as set out in paragraph 79. These circumstances are described as:

- a) *there is an **essential** need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; [emphasis added]*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it: is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

None of these circumstances have been evidenced within the application.

With there being no justification to support the application having regard for the core principles for sustainable development set out within both the Framework and Local Plan, it is necessary to understand how the suggested transport and biodiversity benefits brought by the development might outweigh the unsustainable nature of the development.

The National Planning Policy Framework (chapter 2) identifies the purpose of the planning system as contributing to the achievement of sustainable development. There are 3 overarching objectives of sustainable development: an economic objective; a social objective, and; an environmental objective. Sustainable development should be pursued in a positive way, and so at the heart of the NPPF is a presumption in favour of sustainable development.

The NPPF clarifies this aim (paragraph 11d) stating that permission should be granted unless other NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing the development. In addition, planning permission should be refused if any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Particular attention should be drawn to footnote 7, which specifically notes the policies relating to habitat sites, and/or Sites of Special Scientific Interest with regard to paragraph 11d.

Species, habitats, and ecosystems of particular importance or vulnerability are identified within international, national and local designated sites. The aim of these designations is to protect and enhance biodiversity; meaning the protection of species and the habitats they live in. Sites of Special Scientific Interest (SSSI), one of our most high status habitats, are national statutory designated areas under the Wildlife and Countryside Act 1981, as amended.

Nationally designated Priority Habitats are identified in a published list of habitats and species that are of principle importance for the conservation of biodiversity in England, as required by section 41 of the Natural Environment and Rural Communities (NERC) Act.

The British Standard for Biodiversity (BS: 42020:2013) provides guidance for the assessment of biodiversity impacts, including a 'Mitigation hierarchy':

- Where possible adverse biodiversity impacts should be **avoided**

- If damage cannot be avoided, it should be **minimised**
- Damaged or lost habitat should be **remediated**
- As a last resort with clear justification, **compensate** for damaged or lost habitat

In addition, enhancement should be secured wherever possible.

The impact of the development on ecology is discussed in greater detail below, but in principle, the proposal would result in a domestic building within the Site of Special Scientific Interest. The application therefore falls at the first hurdle of the 'mitigation hierarchy', which is to **avoid** development in a SSSI. The extensive 10 hectare site is not all within the SSSI, or SSSI impact risk zone. Incursion of development into the SSSI, and SSSI impact risk zone, can be avoided by the applicant.

The need to minimise travel by private car is a key objective as outlined in the National Planning Policy Framework (NPPF chapter 9) to achieve sustainable development, which seeks to promote walking, cycling and public transport. To this end, development should be concentrated in and around existing, or proposed, places where jobs and services are concentrated and seeks to ensure that residential development is located in the most sustainable locations; or put another way not normally in open countryside. The Mendip District Local Plan (MDLP) is consistent with this approach.

The development proposed would foster the growth in the need to travel by private car, as the site is located outside of a settlement limit where there are limited employment opportunities, services and facilities. The occupier's day to day needs would inevitably be made by trips in private vehicles, for shopping, employment, leisure, health and education to name a few. This unjustified fostering in the growth in the need to travel is contrary to the objective of promoting sustainable development as promoted by local policy and policy outlined in the NPPF.

The applicant makes the argument that the site is visited on a daily basis in order to carry out land management and as such, a dwelling on site would reduce trip movements. The LPA argue, as above, the proposal would create significantly more trip movements associated with the activities associated with the everyday running of a household than the land currently generates with dwellings generating in the region of 8 trips a day, 7 more than the site currently generates (1 trip).

The applicant also argues that the site has historically been occupied. However, neither the applicant nor the Council has documented evidence to support this case and therefore, this is not a material consideration in determining the application.

In the planning balance, it is acknowledged that the provision of a dwelling would contribute a single housing unit to the districts housing supply. However, this 'benefit' is considered minimal, and would not outweigh the significant and unjustified harms outlined above.

In conclusion, the proposed development would not avoid development within a SSSI when alternative sites are available, would be development in a remote unsustainable location fostering the growth in the need to travel and in this, any biodiversity enhancements would not outweigh by the harm of having a development in this isolated location. It is therefore, in principle, contrary to the aims of the NPPF (2019) to achieve sustainable development.

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

The proposed dwelling is positioned half way up the hillside in a prominent location, within a Special Landscape Feature “Worminster Down/Launcherley Hill”. The topography has a slight plateau on the generally steep slope. There is some small low-key built development in the vicinity. The site is afforded some degree of screening from the hedge field boundary to the north of the site for the proposed dwelling.

The proposed dwelling is a substantial building of commonplace modern design, with accommodation over three floors by virtue of the inclusion of a basement. The development is not considered to be of exceptional quality, or be of truly outstanding or innovative design. The building is described as having 4 bedrooms, although the library and office could be included within the ‘bedroom’ numbers. The overall impact of the building has been mitigated to some extent by virtue of the flat roof, and degree of excavation of the site that sets the building into the hillside, including a basement area.

The proposed walling materials are proposed to be a selection of render, larch cladding, and rubble stone. Every elevation has a large proportion of glazing. The first floor, having a smaller footprint than the ground floor, has a number of roof terrace areas.

The dwelling does not have a defined curtilage area. The outside space includes a large gravel area. The proposal includes a detached 2-bay ‘carport’ with an additional workshop space, with a dry stone retaining walls and a cedar shingle roof. There is also a detached ‘store’ building. In addition, to access the dwelling, a long access track is proposed, which would dissect the field to the north of the dwelling. While it is proposed to upgrade the surface to have 2 ‘metalled’ or concrete strips, or ‘Grasscrete’ (or similar) to minimise the visual and environmental impact, any form of consolidated surface would further visually direct views of the special landscape feature to the proposed dwelling, further highlighting its presence and increasing the impact of the proposal on the landscape.

Notwithstanding the limited screening provided by the hedge currently in existence, the proposed dwelling would be very prominent in the wider landscape. The effect of the built form in this currently verdant area would be visible both in daylight hours, particularly during times of leaf fall, and at night where the large expanses of glazing would result in light spill. Together with the dwelling, the carport and store building present a large north elevation. In addition, the associated domestic paraphernalia would further erode the intrinsic natural beauty of the area.

DP1 states that development should contribute positively to the maintenance and enhancement of local identity, and proposals should be formulated with an appreciation of the built and natural context. Further to this, decisions should take account of efforts made to minimise negative effects. Where development proposals would adversely affect or result in the loss of features and scenes recognised as being distinctive this should be balanced against the significance of the feature or scene and degree of impact against the benefits of the proposal.

The position of the dwelling within the site is not considered to minimise the negative impacts of development in this location. The proposed dwelling and associated development would have an adverse urbanising impact within this rural scene in open countryside. As discussed previously, the proposal

would contribute 1 dwelling unit to housing supply, but this benefit is not considered to outweigh the harm to the Special Landscape Feature.

The proposal by reason of its design, siting, scale, massing, layout and materials does not contribute or respond to the local context, or maintain the character and appearance of the surrounding area. The proposal is therefore contrary to Policy DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Parts 6 and 12 of the National Planning Policy Framework.

Ecology:

Biodiversity and the natural environment can deliver on the core objectives of the Council, by promoting health and wellbeing, contributing to the local economy, and responding to the climate emergency.

Local Planning Authorities have a statutory duty to conserve biodiversity in the exercise of all public functions, as outlined in the National Environment and Rural Communities Act (2006) for England. This requires LPAs to assess the impact of a proposal on potential ecological impacts, and ensure proposals will promote ecological enhancement. These duties protect all nature, not just specific protected sites and species. LPAs must consider how a development might affect 'protected' and 'priority' species and habitats on or near a proposed development.

The application site also lies within an area of Lowland Meadows, a priority habitat listed in s41 of the Natural Environment and Rural Communities Act 2006 for which the local planning authority must have regard for the conservation of in carrying out its duties.

Section 99 of the Government circular 2005/06 on biodiversity and geological conservation states that 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.'

The applicant has described how the proposed development will enable the stewardship of the SSSI.

It is worth noting that under section 28J (Management Schemes) of the Wildlife and Countryside Act 1981, Natural England may formulate a management scheme for all or part of a SSSI, and serve a notice on the landowner defining the scheme objectives and a timeframe for its implementation. This can be a scheme for conserving the site, restoring the site, or both. If the management scheme is not implemented within the defined timeframe, then Natural England can enter the land to fulfil the requirements of the management scheme, and recover the costs from the land owner. Therefore, the appropriate management of the land is not solely within the gift of the landowner, and should not be considered a 'bargaining chip' in the determination of this application. This is demonstrated in the Ecologist's response, regarding the management plan to be in place, and not requiring a condition.

The assertion that the proposed site is the most suitable because of the existing development in that location is disingenuous. The proposed building is significantly larger, and does not utilise any existing structure. Not only does the built form erode the SSSI, but also the proposed use. The use as a dwelling would entail associated 'domestic' activity, with artificial lighting, noise and disruption, far in excess of what could be characterised by the existing use and built form. This general disruption of the SSSI would

be harmful because of the reduction in the area SSSI, and the disturbance of the species that live and forage within it.

It is acknowledged that the Ecologist and Natural England have evolved their responses to the proposal as more information has been submitted during the course of the application. However, fundamentally, development within the SSSI should be avoided, which is entirely feasible given the site area. The proposal in itself would not provide a demonstrable benefit that would outweigh the identified harm of development. The conditions suggested by the County Ecologist are not an endorsement of the development itself but rather to ensure the development is carried out as proposed in the interests of the natural environment having regard for mitigation and enhancement in the unlikely event that the Council should abandon its core principles for bring forward sustainable development.

For the reasons outlined above, the proposed development will have an adverse impact on species, habitat and ecosystems that have been designated as a Site of Special Scientific Interest. The proposal is therefore contrary to Policies DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Impact on Residential Amenity:

Given the design, scale, massing and siting of the proposed development in an isolated location 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, smell, 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, in this respect.

Amenity can also be defined as a positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, or less tangible factors such as tranquility. The proposal would be detrimental to the amenity of the countryside character in this location through light pollution, noise and other disturbance.

Assessment of Highway Issues:

The application includes proposed changes to the access for the site. Utilising an existing field gate onto an unclassified road, it is proposed to upgrade the surface to have 2 'metalled' or concrete strips, or 'Grasscrete' (or similar). The gates are also proposed to be moved to allow a 'refuge' off of the highway for vehicles entering or leaving the site. Given the existing agricultural use, it is not considered that the proposal would result in a significant increase in traffic movements that would be prejudicial to highway safety. The proposed access for the site is therefore considered to be in accordance with DP9.

The proposal includes the provision of a carport with 2 parking spaces, and an area of hardstanding. SCC Parking Standards requires 4 parking spaces for a 4 bedroom dwelling in this location. The proposed parking for the site is therefore considered to be in accordance with DP10.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework, in this respect.

Trees:

The Ecology survey describes the tree species that make up the hedge to the west and north of the site as 'important' under the Hedgerow Regulations due to the diversity of woody species, as well as being within the SSSI. It describes the hedgerow on the northern boundary as "defunct". Although limited, this hedgerow would provide some degree of screening of the proposed development. Additional planting is proposed, but no specific details have been provided, and the establishment of any new planting would take a significant period of time to provide screening.

No specific tree survey, or root protection plan has been submitted with the application. The impact of the development on trees that have significant visual or amenity value, and any required protection or mitigation cannot be established. The details of a root protection plan and additional planting proposed within the ecology surveys and subsequent correspondence could be secured by pre-commencement conditions.

Land Drainage:

The site is located within Flood Zone 1. The land Drainage Engineer found there are some small areas of the site that are shown to be at low risk of surface water flooding. These do not affect the location of the proposed dwelling, but require consideration in the design of the surface water drainage scheme.

The site is currently undeveloped with the presence of some temporary structures; therefore the proposed buildings and associated parking and access will increase the impermeable areas and the surface water runoff from the site. The applicant indicates that soakaways or existing ditches will be used for surface water discharge. The use of soakaways is supported by the Land Drainage Engineer, but no details of infiltration tests have been provided with the application to prove that they are a viable solution on this site. Should infiltration tests show ground conditions are not favourable for soakaways, an alternative means of surface water disposal will need to be clearly identified.

With regards to foul drainage, the applicant proposes non-mains drainage using a package treatment plant. As with the surface water drainage above, further detail is required on how the treated effluent from the package treatment will be discharged.

Therefore, subject to conditions, the proposed development will not have an adverse impact on flood risk, or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Further to the above assessment, and the impact the scheme might now have on phosphate outfall from the PTP system on the Somerset Levels and Moors Ramsar sites. It has been demonstrated subject to the site being managed under a restrictive Higher Tier Countryside Stewardship Agreement with Natural England, the proposed development would not cause harm to the Somerset Levels and Moors Ramsar site with particular regard to the discharge of phosphates.

Sustainability and Renewable Energy:

The applicants suggest the use of renewable energy, including biomass from within the land for heating as well as the solar power, however, no details have been provided.

Refuse Collection:

While the site is considered capable of providing adequate space for the storage of refuse and recycling, this would also impact on the general domestication of the site, contributing to the harm to the character and appearance of the area.

Environmental Impact Assessment:

This development falls within the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (category 10(b)(iii) of Schedule 2 and exceeds the threshold criteria with regards to the area of the development and has therefore been screened. It was determined that the proposal will not result in significant environmental effects. As such an Environmental Impact Assessment was not required, although the environmental effects have been assessed and are set out in this report.

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.

Other Matters:

The applicant has suggested that the development could be subject to a Section 106 agreement to tie the dwelling to the land. As described above, no adequate justification for the development has been demonstrated, and so a S106 would not be justified. However, a S106 legal agreement would be required to ensure the satisfactory stewardship of the wider 40 acre site in the interest of biodiversity.

Conclusion:

It is recommended that planning permission is refused because the proposal has failed to demonstrate an essential functional need for a dwelling, outside development limits, in an isolated location that is not considered to be sustainable development. The development does not avoid a Site of Special Scientific Interests, when there are alternative positions outside the SSSI, and where the identified harm has not been outweighed by identified benefits. The site would result in a dwelling, with associated domestic paraphernalia, in a Special Landscape Feature, to the detriment of the identified special character of the area.

Recommendation

Refusal

1. The application fails to demonstrate that there are any special circumstances such as functional or essential need to allow a new dwelling in this isolated rural location. As such, the proposed development would result in the unjustified and unnecessary encroachment into the open countryside, failing to protect or preserve its intrinsic character and beauty and there are no overriding benefits associated with the development which would outweigh the harm. The development is therefore contrary to Policies DP1 and DP13 of the Mendip District Local Plan 2006-2029 and policies within the National Planning Policy Framework (NPPF) including paragraphs 11d and 79.
2. The proposed development by virtue of its location within a Site of Special Scientific Interest (SSSI) would result in the loss of an area of the specially designated site. The application has failed to clearly demonstrate that any associated benefits of the development outweigh the identified harm, and has failed to demonstrate that alternative sites outside the SSSI, to avoid the identified harm, are not suitable. The proposal is considered to be contrary to Policy DP5 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) and the National Planning Policy Framework, with particular regard to Chapter 15.
3. The proposed development in a prominent location within a Special Landscape Feature will result in a dwelling and associated domestic development of a design which is suburban in its appearance, and by reason of its siting, scale, massing and appearance will change the character of the site from open countryside to developed land encroaching into the countryside. The resultant development fails to contribute positively to the maintenance and enhancement of local identity and distinctiveness contrary to policies DP1, DP4 and DP7 of the Mendip District Local Plan Part I: Strategy and Policies (December 2014).

Informatives

1. This decision relates to drawings 6407W/11, 12A, 13A1, 15REV A, 05 REV A1, 05 REV A1(1), 15 and 15 (1).
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 by working in a positive, creative and pro-active way. Despite negotiation, the submitted application has been found to be unacceptable for the stated reasons. The applicant was advised of this, however despite this, the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.