

Case Officer	Jennifer Alvis
Site	Paddocks End Vinney Lane Tytherington Frome Somerset
Application Number	2023/0380/OUT
Date Validated	1 March 2023
Applicant/ Organisation	L Derbyshire & N Hudson
Application Type	Outline Application
Proposal	Application for Outline Planning Permission (All Matters Reserved, except Access) for the erection of a detached single storey Eco dwelling to replace Riding School and buildings (existing commercial equestrian use).
Division	Frome East Division
Parish	Selwood Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Shane Collins Cllr Helen Kay

Departure Notification and Scheme of Delegation:

This application is recommended for approval. The application has been advertised as a departure from the Local Plan.

Through the course of the application both the Parish Council and the Divisional member have supported the application.

In accordance with the scheme of delegation, as this application represents a departure from the Local Plan it is therefore referred to committee for consideration.

Description of Site, Proposal and Constraints:

This site is situated at Paddock's End, Vinney Lane, Tytherington and is currently in use as a riding school and commercial equestrian use with a manège, stables and other associated infrastructure. The plot is surrounded by existing residential dwellings on two boundaries, a B8 commercial use to the west and open field to the north.

The site is within an Air Limit Civilian Zone, Bat Consultation Zone, Mells Special Area of Conservation and SSSI Risk Area.

This application seeks outline planning permission with all matters reserved except access, for the demolition of the existing equestrian buildings and erection of a single

storey contemporary eco-dwelling on the western edge of the site. Whilst not submitted for approval the applicant's agent has clarified the scope and profile of the type of dwelling that the application is seeking to develop as indicated in the design, access statement submitted to support the application.

The proposal seeks to utilise the existing access to the south.

Relevant History:

No relevant history

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

Ward Member: In favour of the sustainable design. If recommended for refusal I request that the application is referred to Planning Board.

Parish Council: Approval - Sustainable development, with a strong environmental design focus, on essentially a 'brownfield site' (currently a yard and stables), without extending the footprint of the current built form (i.e. stable block)

Highways Development Officer: Standing advice.

Land Drainage: No objection subject to conditions regarding surface water and foul waste drainage

Environmental Protection: No objection subject to a condition restricting construction hours

Contaminated Land: Advise keeping a watching brief due to the former use of the land

Ecology: No objection subject to conditions

Local Representations: Three letters of support have been received.

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)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

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

- CP1 – Mendip Spatial Strategy
- CP2 – Supporting the Provision of New Housing
- CP4 – Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

Policies CP1 and CP2 of MDLP seek to direct new residential development towards the Principal settlements and within defined Development Limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF. Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions (Development Policies 12, 13, and 22), which do not apply in this case. Policy CP1 directs that new housing should be located in sustainable locations in the 5 market towns and villages near to services and facilities.

The Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the Local Plan, which seek to prevent new housing outside the development limits of settlements (CP1, CP2 and CP4) can not be given full weight in the decision-making process. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

The application site is within the named settlement of Tytherington which doesn't benefit from development limits however the site lies to the rear of existing residential properties and is bounded to the west by a camping and holiday site and to the east by storage units (Class B8), so is not in an isolated location. The plot of land proposed for development is currently in commercial equestrian use with a manège, stabling and associated infrastructure, and as such would be considered previously developed.

Whilst the Council makes all its planning decisions in accordance with the Development Plan in this instance it is considered that there are material considerations that would weigh in favour of the development in terms of the principle of a dwelling in this location. These include that the development site is not considered isolated and lies on previously developed land.

In addition the applicants agent argues that the site also lies close to the south east boundary of Frome with a supermarket and other retail facilities within walking distance via a footpath to the rear of the site.

Finally, the applicants are proposing a low impact eco dwelling. The Parish Council have argued that this should be given weight in the balance of issues, and could be considered as an off set to the location of the application site beyond a recognised settlement boundary (refer to Conclusion and Planning Balance Section).

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

The current application is seeking outline permission only with appearance and layout being a reserved matter.

As such a full assessment on the impact of the proposal on the street scene and wider landscape cannot be undertaken at this stage however the proposal is for a single storey dwelling to the rear of existing properties.

The details will be finalised as part of the reserved matters approval process, with a condition recommended at this stage to restrict the height accordingly so that the visual impact remains acceptable. The high tree line bounded edges of the site would further minimise the impact given the screening that it would provide.

With the built form restricted accordingly it is not considered that the application would result in any harm in terms of visual and/or landscape character impacts

Impact on Residential Amenity:

The current application is seeking outline permission only with appearance and layout being a reserved matter. As such, a full assessment on the impact on residential amenity cannot be taken at this time.

However, in relation to the surrounding land uses, it's not considered that the B8 storage use to the east would create noise, dust or other impact significant enough to have a detrimental impact on future occupiers. In addition, the applicants are proposing to build this property for their own occupation and are aware of the adjacent uses.

Sustainability and Renewable Energy:

The submitted Sustainability Statement confirms the concept of the proposed dwelling has been designed with sustainability and renewable energy at it's core. The agent confirms that this will include PV solar panels to the roof, ground source heat pump, low energy lighting, sustainable materials (including the reuse of existing materials on site), EV charging points, rainwater harvesting and significant biodiversity net gains.

Whilst the applicant's commitment to delivering a new dwelling based the eco build philosophy as outlined above which is to be applauded the application does not propose the level of detail that is needed to conclude that the application scheme will deliver a design which is of exceptional quality as enshrined by paragraph 80 of the Framework (NPPF).

Impact on Ecology:

The site lies in a bat consultation zone associated with the Mells Valley Special Area of Conservation. One of the qualifying features leading to the designation of this site is its greater horseshoe bat population. The application is supported by an ecology report

including the results of Bat Emergence Survey as undertaken. The surveys concluded that the structures have low suitability in terms of bat roosts and the emergence survey concluded no bats were observed emerging from the building. Bird nests were observed in some of the structures. The County Ecologist accepts the findings of the surveys and raised no objection to the proposal subject to conditions. The Ecologist did note that there was an established hedgerow on the south east boundary of the site which they requested be retained to allow flight paths for bats from nearby Marston Park, and a lighting design for bats be submitted which includes details of specialised glazing as to mitigate against light spill towards this hedge. Additional recommended conditions which seek to prevent bird strike on any potential large areas of glazing, time restriction on the removal of buildings and vegetation to prevent disturbing nesting birds and the provision of swallow nest cups have also been suggested and are considered reasonable.

Given the above suggested conditions, and an additional condition which secures biodiversity net gain as required by para 8 of the NPPF, the proposal is considered acceptable in terms of ecological impact and complies with DP5 and DP6 of the Local Plan Part 1.

Assessment of Highway Issues:

The proposal seeks to utilise the existing access which also serves the neighbouring B8 use and existing equestrian use, which would cease if this permission was implemented. As such, the proposed dwelling would be unlikely to generate additional vehicle movements above the existing use and therefore would not have an impact on highway safety. There is adequate space for parking provision within the site.

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

Drainage:

Subject to relevant 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.

Environmental Impact Assessment

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

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion and Planning Balance:

The overall thrust of Government Policy as set out in the updated NPPF is to encourage the delivery of sustainable development and requires Local Authorities to boost significantly the supply of housing. As the Council cannot demonstrate a 5 year housing land supply, this application is considered in the tilted balance as set out in para 11d of the NPPF is engaged, confirming that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

In this case no material harm has been identified regards the application proposal - refer to assessment above. The fact that the site is previously developed land is recognised and taken into account in arriving at this conclusion, and should be given significant weight.

At this outline stage there are no details as to how the dwelling would be constructed and although the applicant has confirmed that it is their intent that the dwelling will be constructed on the basis that the space heating and energy generation arrangements will be provided without needing to rely on fossil fuels it is not considered that significant weight should be given to this consideration.

Although it is recognised that there is a public footpath that would enable future occupiers to travel to the services and facilities in Frome without requiring vehicular travel it is considered that this is more likely to be a travel option for leisure and recreational trips as opposed to visiting shops and services. For this reason it is not considered that significant weight should be given to this consideration.

In summary given that the application will provide an additional dwelling on land that is previously developed and therefore positively contribute toward housing supply, and no material harm has been identified, the application is recommended for approval as a departure from the Development Plan.

Recommendation

Approval

Conditions

1. **Outline Time Limit (Compliance)**

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

2. **Reserved Matters (Pre-commencement)**

Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

3. **Reserved Matters Time Limit (Compliance)**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

4. **Plans List (Compliance)**

This decision relates to the following drawings: 22167-1, 22167-2, 22167-3, 22167-4, 22167-5B and 22167-6C

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

5. **Surface Water Drainage System (Pre-commencement)**

No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological

and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include results of infiltration testing, along with details of groundwater levels and soakaway design, in accordance with Building regulations Part H, to verify whether or not soakaways will be suitable for the development. Where soakaways are found to be suitable, details of the soakaways to be installed should be provided. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage shall be detailed and justified instead. The scheme shall also include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details and retained for the life of the development.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policy DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the surface water drainage strategy.

6. Drainage - Foul (Pre-commencement)

No development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the dwelling.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

7. External Lighting (Bespoke Trigger)

Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. All external lighting shall be installed in accordance with the specifications and locations set out in the design,

and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

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

8. Glazing (Bespoke Trigger)

All glazed areas of the dwelling will be of glazing that limits light spillage so that light levels do not adversely disturb bats and other species using their territory or having access to resting places. In addition, any large areas of glazing shall incorporate measures to prevent against bird strike. Details of the glazing to limit light spillage and bird strike will be submitted and agreed in writing by the Local Planning Authority prior to the installation. The glazing will be installed as agreed. No other type of glazing shall be used to replace faulty glazing unless it achieves the same or better results in terms of light spill than the agreed specification.

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

9. Retention of Hedgerow (Pre-commencement)

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

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

10. Provision for Swallows (Bespoke Trigger)

Within 3 months of the commencement of development a scheme for provision for nesting swallows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide full details of the provision, for example within a structure providing shelter, such as an open fronted log store or bespoke box attached to the wall, along with the erection of three artificial nest

cups within. The approved scheme will be implemented in full and retained thereafter.

Reason: To protect nesting birds and prevent ecological harm in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and in accordance with Government policy for the maintenance of biodiversity as set out in the National Planning Policy Framework (170d).

11. Biodiversity Net Gain (pre-occupation)

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include:

- a. A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation or on a suitable tree on site;
- b. One Vivara Pro Woodstone Nest Boxes (32mm hole version) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter;
- c. One Vivara Pro Barcelona Woodstone Bird Box (open front design) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter;
- d. A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of the dwelling.½Please note bee bricks attract solitary bees which do not sting.

All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

12. Height of dwelling (Compliance)

The dwelling hereby approved shall be a single storey unit as indicated in the supporting design, access and planning statement (dated February 2023) as submitted.

Reason: In accordance with the application proposals and given the site location in order to safeguard the character and appearance of the surrounding area in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. Condition Categories

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning

Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.

3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://buildingcontrol.somerset.gov.uk>
5. Due to the former use of the site a watching brief should be kept for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.
If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.
6. Before commencing any works to trees, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st MARCH to 31st AUGUST, no works should be undertaken to trees which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees works should immediately cease until specialist advice has been obtained from Natural England.