

19/20/0008

MR J MARKS

Application for Outline Planning with all matters reserved for the erection of 1 No. dwelling on land to the south of Mill Lane, Hatch Beauchamp

Location: FIELD TO THE SOUTH OF MILL LANE, HATCH BEAUCHAMP, TA3
6TH

Grid Reference: 330427.119755

Outline Planning Permission

Recommendation

Recommended decision: Refusal

- 1 Having regard to sustainability considerations, the site is not considered to be an appropriate location for use as a permanent dwelling. In such circumstances, the proposal to allow a permanent residential dwelling (Class C3) within the countryside would be contrary to the principles of sustainable development, adopted development plan policies and Guidance which seek to avoid the development of 'isolated' homes in the countryside and to reduce reliance on the car. In circumstances where the proposal would fail to enhance the vitality of rural communities, there is no identified need for a countryside location, the permanent use would be likely to increase reliance on the car, the proposal would result in identified harm contrary to Policies CP1, CP8, DM2, SD1, SP1 and CP6 of the Taunton Deane Core Strategy 2012 and Policies SB1 and A5 of the Taunton Site Allocations and Development Management Plan 2016 and paragraphs 78,79, 103 and 108 of the Framework.
- 2 The proposed dwelling by reason of its siting in an isolated open countryside location and outside defined settlement limits together with the removal of a large section of boundary hedge would result in significant visual harm upon the rural local landscape character and therefore would be contrary to Policies CP8 and DM1 of the Taunton Deane Core Strategy (2012) and relevance section sections of National Planning Policy Framework.
- 3 The proposed development would adversely impact upon the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in the area where they are already excessive. In the absence of technical information demonstrating the level of phosphates generated by the development, it is not possible to produce a Habitat Regulations Assessment or put in place the measures necessary to off-set the impact. As such the proposal is contrary to Policies CP8 (Environment) and DM1 (General requirements) of the adopted Taunton Deane Core Strategy and Paras. 175-177 of the NPPF.

Recommended Conditions (if applicable)

Notes to Applicant

- . In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Proposal

The proposal is for outline planning permission with all matters reserved to build a dwelling on land to the south of Mill Lane this road. A Site plan has been submitted detailing a two storey detached dwelling house with the creation of a new vehicular access to Mill Lane with parking area in front of the property.

Site Description

The site is located to the south of Hatch Beauchamp with access taken from Village Road. The land is south of Village Road (detailed as Mill Road by applicant) with the property know as Fowler's to the north east and the property of Meadows to the south west.

Relevant Planning History

19/19/0008 Pre-application consultation for the erection of a dwelling which concluded:

"Having regard to the above matters, I can advise, in conclusion that a proposal for a dwelling in this location currently fails to accord with local plan policies and national guidance".

Consultation Responses

Cllr Henley – I would like this application to be brought before Planning Committee

HATCH BEAUCHAMP PARISH COUNCIL - Support
SC - TRANSPORT DEVELOPMENT GROUP - Standing Advice
WESSEX WATER - No objection
LANDSCAPE - Objection Raise the following concerns:

- Given that the site lies in open countryside and would be contrary to policy I would have expected a landscape appraisal to have accompanied the application but the details submitted are very poor.
- The site is in open countryside and not well related to other buildings;
- To meet highway visibility splay requirements a considerable amount of 'Important' hedgerow will need to be removed;

- As well as views from the roadside there are a number of public rights of way that would also have a view to the site and there is no indication how the proposed development would mitigate the harm.

In summary, the proposed residential development would be contrary to policy CP8 and based on lack of supporting evidence and impact on the rural countryside I strongly object to the application on landscape grounds.

A condition would also be required on any approval granted:

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with policy CP8 of the Taunton Deane Core Strategy.

Ecology – Objection Habitats Regulations Assessment required.

As hedgerow and possibly trees would be removed to form the access to the proposed development and lacking evidence to the contrary the following condition is required:

1. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with policy CP8 of the Taunton Deane Core Strategy

Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA) due to the recent CJEU Dutch Nitrogen case law. This is because the application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavourable' condition any increase, including from single dwellings, is seen as significant, either alone or in

combination with other developments.

To complete the Habitats Regulations Assessment information on how foul water is to be dealt with, this will either through a mains wastewater treatment plant or a site package treatment plant or septic tank. If it is via the main wastewater network the Wastewater Treatment Works, and the amount the permitted amount of phosphate for the works. Where Package Treatment Works information on the efficiency of the plant in treating phosphates will be required. Guidance is in preparation for septic tanks.

Natural England have pointed us towards guidance for Stodmarsh SSSI [https://www.folkestone-hythe.gov.uk/media/2747/ID-1042876-2-MM7-/pdf/ID_1042876_\(2\)_MM7\).pdf?m=637309397591500000](https://www.folkestone-hythe.gov.uk/media/2747/ID-1042876-2-MM7-/pdf/ID_1042876_(2)_MM7).pdf?m=637309397591500000), in lieu of national guidelines at the moment. This may help you with the data needed to inform an assessment of the proposed development. Natural England will be issuing national guidance within the next few weeks.

In addition, Natural England advise that mitigation will need to be identified and secured by the applicant in order to complete the Habitats Regulations Assessment. For mains wastewater treatment this can be funding for habitat creation or agricultural land taken out of production in the Levels and Moors catchment. A strategic approach is being developed to enable developers to purchase mitigating habitat creation. However, locations and their viability for habitat creation has yet to be determined, as has a scheme for financial contributions per dwelling to this habitat creation. This is likely to take some time and will inevitably lead to delays in determining housing applications, as it has elsewhere, for example in Hampshire where the Solent SAC was affected. Alternatively an applicant may source their own mitigation. For Package Treatment Plant this can be a small wetland, specifically designed to remove phosphates, its area depending on the amount of phosphate kilograms produced from the proposed development per year. The mitigation will be required to be implemented prior to commencement or will then need to be in place before any dwelling is occupied depending on the certainty of the scheme offered.

Once the above details have been submitted the Local Planning Authority, as the competent authority under the Habitats Regulations 2017, will be able to carry out the Habitats Regulations Assessment. Note a response on this assessment is required from Natural England before a decision can be made on the application.

01/03/021 Thank you for the above consultation which Somerset Ecology Services (SES) has considered.

As per our previous consultation response, the application is located within the catchment of the Somerset Levels and Moors Ramsar site. Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA). The submission will therefore need to demonstrate how the proposal achieves nutrient neutrality in order to comply with The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

In the event that the development requires mitigation to ensure the proposal is nutrient neutral, the application will not be considered further unless, or until, a complete package of information is submitted. To assist with how this could be

undertaken, please see the attached documents, comprised of Somerset Nutrient Information Request Sheet (V1), Interim guidelines on small scale thresholds and nutrient neutrality principles, and the Stodmarsh Methodology Guidance (Nov 2020).

The attached Interim guidelines on small scale thresholds and nutrient neutrality principles have been agreed between SES and Natural England in lieu of the national guidance. It is noted that the application is supported by evidence pertaining to these Interim guidelines, specifically to the small scale thresholds of likely significant effects in relation to Package Treatment Plants (PTPs). The evidence submitted in order to progress the application under these guidelines comprises the following:

- Foul Drainage Assessment submitted 18th February, prepared by James Marks (applicant).

The attached Interim guidelines state that small discharges from PTPs to ground (i.e. less than 5m³ per day) within the Ramsar catchment will present a low risk of a significant effect where the location and design of the drainage field meets the Proposed thresholds criteria a-g. As a result the applicant will now be required to satisfy these criteria for small scale thresholds.

The attached Interim guidelines also state that a PTP discharging into a drainage field needs to be appropriately designed, including acceptable year round percolation rates for it to work effectively. A percolation test ensures the drainage field effectively removes pollutants and then determines the size of the drainage field required.

SES therefore request a percolation test is performed to ensure the proposed location of the drainage field, which needs to be clearly indicated, effectively removes pollutants and to determine the size of the drainage field required. The results of the percolation test will also enable SES to confirm whether the location of the drainage field meets *Proposed thresholds* criterion b.

It is also not presently clear within the submitted documentation where the PTP and its subsequent discharging point is located.

Please note the following regarding the provision of the above scheme of foul water treatment:

- Where PTPs discharging into drainage fields are proposed, compliance with the criteria on drainage and waste disposal, as set out under the Building Regulations 2010 (see Approved Document H - Drainage and Waste Disposal, 2015 edition) is required. This criteria outlines distances in relation to the location of the PTP and drainage field, as well as the requirement for a percolation test, amongst other requirements. See https://www.planningportal.co.uk/info/200135/approved_documents/71/part_h_-_drainage_and_waste_disposal;
- In addition, compliance with the criteria on small sewage discharges, as set out within the general binding rules under the Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014, and/or an environmental permit under the Environmental Permitting Regulations 2016, is required. Both outline distances in relation to the location of the PTP and

drainage field, as well as limits on daily discharges, amongst other requirements. See <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>, <https://www.gov.uk/government/publications/small-sewage-discharges-in-england-and-general-binding-rules/general-binding-rules-for-small-sewage-discharges-in-england>, and <https://www.gov.uk/permits-you-need-for-septic-tanks>.

Compliance with these requirements may result in a potential conflict with what may have been considered acceptable by SES under the *Proposed thresholds* criteria (a-g), as set out within the Interim guidelines on small scale thresholds and nutrient neutrality principles. As such, this is a constraint in planning determination at this time and requires further discussions between the Local Planning Authority, SES and Statutory agencies including Natural England and the Environment Agency. The application will therefore not be determined until this constraint has been resolved and the conclusions of the HRA can be reached with absolute certainty.

Representations Received

There have been some 7 letters of support to the application stating:

- The applicant needs to be closer to their business;
- Sympathetic setting for a new dwelling house;
- Support subject to hedgerows being retained and protected;
- This is a self-build project for the applicant and his family and therefore not for profit and should be permitted.

There have been some 12 letters of objection starting the following:

- Outside of settlement boundary so should be refused;
- The land is half a mile from the village envelope and would result in additional traffic congestion;
- No reason to build a house in a field just because applicant wishes to live their business;
- Such development is contrary to Para 55 of NPPF;
- Fails to meet criteria of Policy DM2 of the Local Plan and should be refused;
- It would set a dangerous precedent in the local area;
- The village offers limited facilities i.e. no post office, doctor, pharmacy, public transport, access roads are in poor repair;
- Loss of more green space and adverse impact upon wildlife;
- Loss of agricultural land.

Habitats Regulations Assessment

Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA) due to the recent CJEU Dutch Nitrogen case law. This is because the application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within

foul water discharge. As the designated site is in 'unfavourable' condition any increase, including from single dwellings, is seen as significant, either alone or in combination with other developments.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

SB1 - Settlement Boundaries,
A1 - Parking Requirements,
SD1 - Presumption in favour of sustainable development,
SP1 - Sustainable development locations,
CP1 - Climate change,
CP8 - Environment,
CP4 - Housing,
CP6 - Transport and accessibility,
DM1 - General requirements,
DM2 - Development in the countryside,
A5 - Accessibility of development,
D5 - Extensions to dwellings,

Local finance considerations

Community Infrastructure Levy

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £15,750.00. With index linking this increases to approximately £22,250.00.

Determining issues and considerations

THE SITE

The site is located in open countryside outside of any settlement boundary.

PLANNING POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless

material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

Core Strategy 2012

SD1 Presumption in Favour of Sustainable Development
SP1 Sustainable Development Locations
CP1 Climate Change
CP4 Housing
CP6 Transport & Accessibility
CP8 Environment
DM1 General Requirements
DM2 Development in the Countryside
DM4 Design
DM5 Extensions to Dwellings

Site Allocations & Development Management Plan 2016

SB1 Settlement boundaries
A1 Parking requirements
A5 Accessibility of Development

Para 79 of National Planning Policy Framework

Planning Policy

The Council's wider strategy is to focus development within the main centres in recognition that these are the more sustainable locations with the necessary services and facilities to support residents. The approach also serves to protect the areas of open countryside.

The site lies outside any recognised settlement limits therefore Policy SB1 would apply. This states that in order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of the boundaries of settlements identified in Core Strategy policy SP1 will be treated as being within open countryside and assessed against Core Strategy policies CP1, CP8 and DM2 unless:

- A. It accords with a specific development plan policy or proposal; or
- B. Is necessary to meet a requirement of environmental or other legislation; and

In all cases, is designed and sited to minimise landscape and other impacts.

The justification for this policy is that the Framework recognises the importance of protecting and enhancing the natural environment. The policy also assists in meeting other core principles such as shaping patterns of development to reduce the need to

travel, reducing pollution and CO2 emissions.

Core Strategy policies SP1 (Sustainable Development Locations) and DM2 (Development in the countryside) seek to apply strict control over development in the countryside to contribute towards meeting the wider aims of sustainability. The designation of settlement limits or boundaries provide clarity for the application of these policies.

The principle considerations surround policies and guidance relating to sustainability and countryside protection. Factors to consider include the level of reliance on the car.

Having regard to sustainability considerations, a key issue is whether the site is in an appropriate location for residential use having regard to planning policies and guidance surrounding the accessibility of services. The site is outside of any settlement containing basic services required to meet day to day needs. The characteristics of the nearby roads required to reach those destinations are likely to discourage pedestrians and cyclists resulting in a reliance on the private car. Having regard to sustainability considerations, a key issue is whether the site is in an appropriate location for residential use having regard to planning policies and guidance surrounding the accessibility of services. The site is outside of any settlement containing basic services required to meet day to day needs. The characteristics of the nearby roads required to reach those destinations are likely to discourage pedestrians and cyclists resulting in a reliance on the private car. Policy states that "It has been well established that bus ridership falls off substantially where distance to walk to bus stops exceeds 300-400m. Given that bus frequencies in Taunton Deane are relatively low compared with larger urban centres, it is important that walking distances to bus stops are short, and walking and waiting conditions attractive to potential bus users".

Given that bus frequencies in Taunton Deane are relatively low compared with larger urban centres, it is important that walking distances to bus stops are short, and walking and waiting conditions attractive to potential bus users".

There is nothing to suggest that a permanent dwelling in this location would offer particular support to rural services in any rural settlement given distances involved and detachment from them. While it is appreciated that opportunities to maximise transport solutions other than use of the private car are likely to be less in rural areas, conflicts do arise with the Framework which promotes limiting the need to travel and offering a genuine choice of transport modes. This is not the case here where public transport is limited and walking and cycling opportunities limited by factors such as the nature of the rural lanes and distances involved. The proposal is not considered to comply with the Framework when considered as a whole.

Policy DM2 (Development in the Countryside) specifies a range of acceptable uses in the countryside together with associated criteria which must be met. The justification for Policy DM2 states "In line with Government policy, Policy DM2 therefore seeks to control development outside of settlements to protect and enhance the quality of the local landscapes whilst promoting sustainable patterns of development and allowing for economic growth and diversification." However, this policy refers to the conversion or replacment of existing buildngs and this

application is for a new dwelling that is not a consideration of this policy.

The Council's approach reflects the National Planning Policy Framework insofar as it expects development to be centred on appropriate locations and in doing so to limit the need for travel by private car by promoting the use of sustainable modes of transport. The proposed dwelling in this location would fail to accord with these policies.

Policy CP8 states that the Council will conserve and enhance the natural and historic environment, and will not permit development proposals that would harm these interests or the settings of the towns and rural centres. The site and neighbouring sporadic development falls outside the contiguous built-up area of Hatch Beauchamp and is visually distinct from the village by virtue of the tree and hedge lined edges to the highways. In policy terms, as noted above, the location falls within open countryside. Development is limited to individual dwellings or farmsteads and ribbons of a small number of dwellings separated by agricultural fields, all of which contribute to the open, undeveloped setting of the landscape.

It is noted that the applicant has applied for a self-build property and is registered on the Self Build Register with the Local Authority. It is noted that Local Planning Authority does not have a specific policy relating to self-build development. Any new self-build development should be well related to existing settlements and in sustainable locations. However, in this case the proposal would not meet such aspirations and fails to comply with local plan policies as detailed previously.

The Landscape Officer has raised an objection to the proposal stating that a Landscape Appraisal should have been submitted with the application, the site is in open countryside and not well related to other buildings, a considerable amount of hedgerow will have to be removed to accommodate visibility splays to the new access and the site is highly visible from public rights of ways within the area and no mitigation measures are proposed within this application. Therefore this application would be refused on the harm it would have upon the local landscape character.

There have been some 12 letters of objection to the proposal stating that the proposed dwelling is outside of a settlement boundary, fails to meet Local Plan Policies, owning a business in the local area is not a reason to build a house in the countryside, loss of agricultural land and concern to additional traffic generation.

Some 7 letters of support have been submitted to this proposal stating the applicant needs to be closer to their business, it is for self-build and should be permitted and support providing hedgerows are retained.

All these comments have been noted and taken into consideration, however, the principle of a dwelling in the countryside is contrary to the adopted local plan policies as detailed above and it is recommended for refusal.

Conclusion

The introduction of a building in this location would erode the low density, rural pattern of development and by virtue of developing within the existing gap between the properties would result in an intensification of development. The proposals would therefore have a harmful effect on the character and appearance of the rural area

and fail to complement the environment and character of the existing settlement.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

Contact Officer: Mr C Mitchell