

Case Officer	Mr James U'Dell
Application Number	2019/2552/FUL
Site	Land At The Barton Norton St Philip Bath Somerset BA2 7NE
Date Received	14th October 2019
Applicant/ Organisation	Mr And Mrs C Parsons
Application Type	Full Application
Proposal	Erection of 1no. residential dwelling with associated access, garage and parking.
Ward	Rode And Norton St Philip
Parish	Norton St Philip Parish Council

### **Ward Member/ Chair and Vice Chair Referral**

Not applicable as case officer recommendation accords with the Parish Council and Ward Member.

### **Site Description and Proposal**

This full planning application relates to Land at The Barton, The Barton, Norton St Philip and proposes the erection of a single dwelling with access, garage and parking.

The site is located within the Norton St Philip Conservation Area and is designated as an Open Area of Local Significance (OALS).

A previous application for the same development was refused and dismissed on appeal (see history section below).

### **Planning History**

2016/1292/FUL – Erect single dwelling house with access garage and parking – Refused 19.10.2016 for the following reason:

*“The development proposes a harmful encroachment of built development into an Open Area of Local Significance (OALS) to the detriment of its distinctive local character and appearance. The limited benefits of the development for housing supply do not outweigh the visual harm to the OALS and the development proposes limited economic benefits and will not extend the range of facilities available to the local community. As such there are no special exemptions associated with the development. The proposal is therefore contrary to the provisions of Policies DP1, 2 and 4 of the Mendip District Local Plan and the guidance set out within paragraph 17 and parts 7 and 11 of the National Planning Policy Framework (NPPF)”.*

Appeal relating to the above (reference: APP/Q3305/W/16/3167455) dismissed on 23<sup>rd</sup> May 2017.

2016/1293/OTS - Outline planning permission sought for access, appearance, layout and scale with other matters reserved for two detached dwellings (at Land Adj to The Barn, The Barton, NSP) – Refused September 2016. Appeal (reference: APP/Q3305/W/16/3167451) dismissed on 23<sup>rd</sup> May 2017.

## **Consultations and Representations**

### Ward Member

Objects on the basis that the main issues in both applications are the same. These applications are substantially the same as those submitted in 2016 and which were refused by Mendip District Council, whose decision was upheld on appeal.

The refusal and appeal decision were essentially based on the inappropriateness of development of Ringwell Meadows which is in the heart of the Conservation Area and has long been protected in the Local Plan initially as an 'Open Area of Visual Significance' (OAVS) and more recently as an 'Open Area of Local Significance' (OALS). Nothing has changed since then to make such development more appropriate.

### NSP Parish Council

Object on the following grounds (summarised from conclusions):

- Application has very little merit;
- No identified need for the type of housing proposed;
- No material associated benefits;
- Design and scale of proposed housing is out of keeping with their setting;
- Harmful to much valued and important green space;
- Harm outweighs benefits of development.

### Planning Policy Officer

The adopted Local Plan identifies this area as OALS. This designation forms part of the adopted development plan (LPP1) and therefore carries full plan weight in considering this application.

The Council's likely course to withdraw Local Green Spaces from LPP2 means the OALS designation will not be superseded. The withdrawal of LGS from the examined LPP2 does not change the status of the OALS as adopted policy. The LPP2 Inspector has been silent on the status of the OALS and in any event has no jurisdiction to remove OALS from the adopted LPP1

The Inspector for appeal AAP/Q3305/W/16/3167455 clearly considered that harm would be caused to the character and appearance of the OALS, and that the site was appropriately designated as OALS.

This application is virtually identical to the application the subject of appeal in 2017 and as OALS remain part of the adopted development plan the application should be refused. The proposal does not accord with Policy DP2 (LPP1).

The emerging Norton St Philip Neighbourhood Plan which designates the site as LGS is also a material consideration.

#### Conservation Officer

No comments received for this application. However the following comments were provided under application 2016/1293/OTS:

*"The site lies within the Norton St Philip Conservation Area and there is a Grade II\* listed building and Scheduled Monument to the immediate north east - a 15th-century dovecote.*

*The site plan shows that the two dwellings would be located essentially in the southern half of the site, furthest away from the dovecote, its setting would not be compromised. The location on falling ground would mean that they would not be readily visible from within the conservation area, nor from outside looking in, therefore preserving the character and appearance of the conservation area.*

*I therefore have no objections to this application based on the information provided for this outline scheme".*

#### Highways Officer (SCC)

Recommend that standing advice applies.

#### Contaminated Land Officer

No objections.

#### Historic Environment Officer (SCC)

The site lies within the Norton St Phillip Area of High Archaeological Potential. The site itself is situated within the grounds of a grange associated with the Carthusian Monastery at Hinton Charterhouse. The granary precinct is well preserved. The proposal may therefore impact upon associated heritage assets.

For this reason I recommend that the developer be required to archaeologically excavate the heritage asset and provide a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 199). This should be secured by the use of a relevant planning condition.

#### County Ecologist (SCC)

The application site lies within Band C of the Bat Consultation Zones for both the Mells Valley SAC and for Band C of the Bath and Bradford on Avon SAC in relation to their greater horseshoe bat feature.

An Extended Phase 1 Habitat and Bat Survey report of the application site has been carried out by Holmes Ecology in July 2016. This report would now be considered out of date. The Chartered Institute of Ecology and Environmental Management recommend that three years is the maximum period of validity for any ecology report but can be as little as 18 months depending on species presence. Please could you request the applicant to submit confirmation from the ecologist that site conditions have not altered since the time of the survey. I can then make a more informed comment on the application.

#### Tree Officer

No objections raised to the previous application, subject to the attachment of relevant conditions.

#### Environment Agency

No comments received.

#### Representations

The LPA has received 64 letters of objection, raising the following issues (summarised):

- Nothing has changed since the applications were dismissed at appeal;
- Contrary to Policy DP2;
- Contrary to the emerging NSP Neighbourhood Plan;
- Impact to conservation area;
- Impact to distinctive local character of Ringwell Meadows;
- Harm to setting of listed buildings, particularly the Grade II\* Ancient Monument Tudor Dovecote and the important view to the Church;
- Norton St Philip has exceeded its housing requirements;
- Loss of trees;
- Ringwell Meadows is designated under Policy DP2 of the Local Plan as Open Area of Local Significance (OALS);
- Key protected green space which should be preserved;
- Harm to open and tranquil setting of Ringwell Meadows;
- Prejudice Part II of the Local Plan;
- Poor scale, massing and design;
- Out of character;
- Impact to floodplain;
- Poor and unrealistic parking layout;
- Highway safety and overspill of parking onto streets;
- Harm to ecology and biodiversity;
- Harmful to local distinctiveness and architecture;
- Loss of privacy and harmful to neighbours;
- Harmful precedent could be set;
- Green spaces need preservation and are a distinctive part of the character of the village;
- Previous appeals dismissed on similar grounds for sites at Fortescue Fields;

Full details of all consultation responses can be found on the Council's website [www.mendip.gov.uk](http://www.mendip.gov.uk).

## **Planning Analysis**

### Policy Context

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)

CP5 (Encouraging Community Leadership)

DP1 (Local Identity and Distinctiveness)

DP2 (Open Areas of Local Significance)

DP3 (Heritage Conservation)

DP4 (Landscape)

DP5 (Ecological Networks)

DP6 (Bat Protection)

DP7 (Design and Amenity)

DP8 (Environmental Protection)

DP9 (Transport Impact of New Development)

DP10 (Parking Standards)

DP18 (Safeguarding Corridors for Sustainable Travel)

DP23 (Managing Flood Risk)

### *Other Material Considerations:*

National Planning Policy Framework (NPPF), 2019

Planning Practice Guidance (PPG), 2012

Somerset County Council Parking Strategy, 2013

Somerset County Council Standing Advice, 2015

Norton St Philip Conservation Area Appraisal, 2007

### Key Issues

#### **Principle of development**

The current application has to be assessed against the criteria of Paragraph 11(d) of the NPPF as the LPA is currently unable to demonstrate a 5 year housing supply.

The general principle of the development is considered to be acceptable as the site is located within the development limits of NSP. However the site is part of an Open Area of Local Significance (OALS), protected under Policy DP2 of the Mendip District Local Plan. As such the impact of the development needs to be weighed up against the harm to the OALS, in combination with any harm that would result, which will need to be weighed against the overall benefits of the development.

The benefits for housing supply are limited, given only **one dwelling is proposed**. The dwellings proposed are not affordable housing and do not offer significant wider economic or community benefits. As such there are considered to be no special exemptions associated with the development other than the provision of two market dwellings with economic benefits limited to their construction.

The conclusions of the Planning Policy Officer are outlined above, where it has been concluded that Policy DP2 of the Mendip District Local Plan still carries full weight in the decision making process and the site therefore retains its protection as an Open Area of Local Significance (OALS). The emerging Norton St Philip Neighbourhood Plan (NSP NP) also looks to protect the current OALS as a 'Local Green Space' (LGS) and the Planning Policy Officer considers that, despite the high court challenge to the NSP NP, the NSP NP is a material consideration to this application. It also shows the villages desire to protect this green space for future generations.

The Planning Inspector in dismissing the relevant appeal scheme (see history section above) concluded that:

*“As set out above both Appeal A and Appeal B would cause significant harm to the character and appearance of an OALS. As pointed out by the appellants both proposals would contribute to local housing supply and any future occupiers would likely support local services, which are modest benefits. The appeal sites are also both within the development limits of Norton St Philip, a primary village, which is a sustainable location for new development. However, even taken together, these matters do not outweigh the harm I have identified as arising from both appeals”.*

In conclusion, the OALS retains protection under Policy DP2 of the Local Plan and there is considered to be no material change in circumstances with the current application. As such the previous reasons for refusal have not been overcome.

## **Character and Appearance**

Policy DP2 says that the areas defined as OALS have value because of their contribution to local distinctiveness and does not permit development which would harm that contribution.

The Mendip District Local Plan Part 1 defines the site as part of an Open Area of Local Significance, designated for its significant contribution to the quality of the built environment. The designation is applied to spaces which contribute to the locally distinctive character of an area for a variety of reasons, including allowing views out of an otherwise built up street scene, allowing views of significant local features, enhancing the setting of a settlement or creating a sense of space. The OALS were defined by a previous Local Plan, and have been retained because they warrant continued protection. The emerging NSP NP also seeks to protect the OALS as a LGS, therefore it is clear that the village wish to continue to protect this site.

The site in question is currently an extended garden area serving The Barton, which is partly screened from the main open section of Ringwell Meadows by an established deciduous tree screen. The site is however identified as part of the designated OALS within the Policies Map of the Local Plan Part 1 and is therefore afforded protection from development by the provisions of Policy DP2 of the Mendip District Local Plan, which is afforded significant weight. Policy DP2 is part of the current Development Plan and says that the areas defined as OALS have value because of their contribution to local distinctiveness and does not permit development which would harm that contribution.

In the case of Ringwell Meadows the area's contribution to local distinctiveness is created by the open meadow, with a sharp slope to the eastern edge overlooking Norton Brook. There is also an area of garden with prominent deciduous trees that forms a dramatic backdrop to the meadow when viewed from the northern end, belonging to the site in question, which is part of the OALS. The meadow, slopes, brook and trees are all prominent features of the OALS when viewed from Ringwell Lane and the openness of the meadow and natural planting introduces a sense of rural tranquility within the built up area, which also forms a green link to the countryside beyond.

The existing vegetation screening to the site will not mitigate against the visual impact of the development sufficiently given that the majority of the trees are deciduous, therefore prominent views of the proposed development will be present for long periods of the year, especially when viewed from within the meadow looking south and from parts of Ringwell Lane. The visual impact of the development to the OALS is therefore considered to be unacceptable and cannot be satisfactorily mitigated against through landscaping. The development will therefore harm the contribution to distinctive local character made by the OALS.

Policy DP2 suggests that permission will not be granted for development which would harm the contribution to distinctive local character made by Open Areas of Local Significance. The LPA considers that the development will cause significant visual harm to the important features of the OALS due to the scale of the development and the level of urban/ built encroachment (including dwelling, garage and new access) into this protected open space, which will dilute its distinctive rural character. The development will result in the loss of a number of prominent trees within the site and further trees would also be lost along Ringwell Lane, adjacent to the proposed access point, to allow for appropriate visibility splays.

The Planning Inspector in dismissing the relevant appeal ('Appeal A') considered that the development would cause significant visual harm to the OALS:

*"The rear garden belonging to The Barton drops down to the brook right up to Ringwell Lane. It is from here that a new access would be formed to serve the proposed two storey dwelling in Appeal A. The dwelling in this appeal would be sited almost immediately adjacent to Norton Brook on its eastern side. On the western side would be a double garage and large gravel drive and turning area. Although the proposed development in Appeal A would occupy a lower point within the OALS, development of this scale and nature in what is currently an open, and undeveloped green space would still have a harmful urbanising impact and would be in complete contradiction to this area's designation."*

*“Policies DP1 and DP4 of the LP seek to protect local landscapes and the distinctiveness of different areas and Policy DP2 more specifically seeks to protect the contribution to distinctive local character made by OALS. Both Appeal A and Appeal B would clearly conflict with these policies. I find these policies to be consistent with the broader aims of the National Planning Policy Framework (the Framework) which seeks to promote or reinforce local distinctiveness”.*

The design of the dwelling is considered to be appropriate to the context of built development found within this locality, which reflects dwellings of varying designs and scales. As such the LPA considers that the external appearance of the dwelling is acceptable. However this does not mitigate the visual harm that would be created to the OALS, due to the scale of the dwelling, its visual prominence and the extent of built encroachment into the OALS. As such the visual impact of the development is considered to be unacceptable as it will fail to respect the local distinctive character and features of the OALS.

Policy DP2 of the Local Plan states that permission will not be granted for development which would harm the contribution to distinctive local character made by Open Areas of Local Significance. As such permission should be refused.

### **Impact to Conservation Area**

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 190 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 192-197 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of these relevant considerations.

The conservation officer has considered the impact of the development purely on the conservation area and offers no objections, as confirmed within their comments above. As such it is considered that the scheme will not materially harm the designated heritage asset, having due regard to Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 and Policy DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014). However this does not justify the visual harm to the OALS, as highlighted above.

### **Residential Amenities**



Policy DP7 of the MDLP states that new development should protect the amenities of neighbouring occupiers and users, and provide an adequate standard of amenity for the benefit of the proposal's future occupiers. Policy DP8 states that development should not give rise to unacceptable adverse environmental impacts, including in relation to residential amenity.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance.

### **Access and Parking**

Policy DP9 and DP10 of the MDLP sets out a range of criteria to ensure that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; avoid direct access onto National Primary or County Routes outside Development Limits; and, where appropriate, demonstrate how sustainable modes of transport would be promoted.

A new access is proposed onto Ringwell Lane to serve the development. A detached double garage and relevant access and turning heads are proposed to allow vehicles to enter and exit the site in a forward gear. The site would have sufficient space for parking 4 cars, which would meet the relevant County parking requirements/ standards. However, the visibility at the access would be restricted due to the presence of existing vegetation screening, which would need to be removed to facilitate the required visibility splays. This part of Ringwell Lane is subject to a 30mph speed limit, so the splays would be measured 2.4m back from the carriageway edge, in the centre of the access, to points 48m to the north and south.

With the attachment of relevant conditions to secure appropriate visibility splays etc.. the development would not pose an unacceptable risk to highways safety. However, as highlighted above, the creation of the parking and turning area, garage and visibility splays (with consequent loss of planting) will add to the urban encroachment of development into the OALS.

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.

### **Trees**

The Tree Officer raised no objections to the previous application and considered that the impact to trees within the site could be controlled by relevant conditions. However the loss of vegetation/ trees, including those required to be removed for the proposed access, adds to the overall visual impact to the OALS from a character and appearance perspective.

### **Ecology**

The County Ecologist has raised concerns (see comments above) in relation to the impact of the development towards protected species given that the ecology report submitted is well over 3 years old and is therefore out of date and does not

demonstrate current site conditions in regards to the presence of protected species and the impact of the development towards them.

The applicant's ecologist has not confirmed that the site conditions remain the same as when the original survey was carried out. As such, in the absence of an up-to-date ecological survey, it is considered that the development would create adverse harm to protected species, contrary to the provisions of Policy DP5 and DP6 of the Mendip District Local Plan.

### **Archaeology**

The Historic Environment Officer at Somerset County Council has raised no objections in regard to the impact of the development to archaeology, subject to the attachment of a relevant condition.

### **Flooding**

The Environment Agency has raised no comments, despite being formally consulted.

Norton Brook (watercourse) is located within 7 metres of the proposed dwelling. The site is not located within a high risk flood zone and the dwelling is positioned on elevated land, due to the slope of the land leading down to the brook. As such it is considered that the development will not significantly harm the flood zone and will not be adversely affected by flooding due to the difference in levels.

### **Energy Conservation**

It is considered that the proposal utilises practical methods for energy conservation within its construction.

### **Refuse and recycling**

The site has sufficient space for refuse and recycling bins, which would be brought out onto the highway on collection days. These arrangements are considered to be acceptable.

### **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**

On the basis of the above assessment it is considered that the harm created to the Open Area of Local Significance (OALS) is not outweighed by the limited benefits of granting planning permission for 1 dwelling given the special qualities of the OALS. As such it is recommended that planning permission be REFUSED.

A decision can be made under delegated powers, in accordance with the adopted scheme of delegation, as the Ward Member and Parish Council also recommend refusal.

## **Reason/s for Recommendation**

1. The development proposes a harmful encroachment of built development into an Open Area of Local Significance (OALS) to the detriment of its distinctive local character and appearance. The limited benefits of the development for housing supply do not outweigh the visual harm to the OALS and the development proposes limited economic benefits and will not extend the range of facilities available to the local community. As such there are no special exemptions associated with the development. The proposal is therefore contrary to the provisions of Policies DP1, DP2 and DP4 of the Mendip District Local Plan and the guidance contained under Part 15 of the NPPF.
2. In the absence of a suitable up-to-date ecological survey, it has not been adequately demonstrated that the development would not create adverse harm towards protected species. The proposal is therefore contrary to the provisions of Policy DP5 and DP6 of the Mendip District Local Plan and the guidance contained under Part 15 of the NPPF.

## **Conditions**

### **List of Advices**

1. This decision relates to the following drawings and reports:
  - 1462/1 (Floor Plans)
  - 1462/1A (Proposed Site Plan)
  - 1462/P2 (Elevations)
  - 1462/3 (Sections)
  - 1462/P4 (Garage Plans)
  - 1813PRS-01 (Topographical Survey)
  - Design and Access Statement
  - EXTENDED PHASE 1 HABITAT 1 & BAT SURVEYS (Dated July 2016)
  - Foul/Non Mains Drainage Assessment
  - OALS Site Assessment
  - Resource Efficiency Statement
2. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The submitted application has been found to be unacceptable for the stated reasons and

having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

3. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.