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NOTIFICATION OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990 TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)

Application Type: Variation or Removal of Conditions **Application No:** 2023/2477/VRC

Location of Development: Barn At Dean Street Farm Dean Shepton Mallet Somerset

Description of Proposal: Application to vary condition 2 (Plans List) of planning approval 2022/0953/FUL (Demolish existing barn and erection of a dwellinghouse and associated works) to re-orientate the dwelling.

Application submitted by: F Wood

Somerset Council, hereby **GRANT** the application described above subject to the following:

Condition(s)

- Standard Time Limit Section 73 - Variation of Condition (Compliance)**
The development hereby permitted shall be begun before the expiration of three years from the date of the original permission 2022/0953/FUL dated 10.08.2022.
Reason: As required by Section 51 of the Planning and Compulsory Purchase Act 2004 and to avoid the accumulation of unimplemented planning permissions and having regard to the Planning Practice Guidance advice that an application under Section 73 of the Town and Country Planning Act 1990 cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.
- Plans List (Compliance)**
This decision relates to the following drawings: F1769/101 and F1769/102
Reason: To define the terms and extent of the permission.
- Materials - Submission of Schedule and Samples (Bespoke Trigger)**
No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Access, Parking and Turning Areas (Pre-occupation)**

No occupation shall commence until the access, parking and turning areas have been constructed in accordance with details shown on the approved plans. The vehicular access, parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

No development shall commence, except ground investigations and remediation, until infiltration testing, including details of groundwater levels and soakaway design in accordance with Building regulations Part H, section 3 (3.30) have been undertaken to verify that soakaways will be suitable for the development. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the occupation 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(s).

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. **Nesting Bird Protection (Bespoke Trigger)**

No removal of trees, hedges, shrubs or demolition of the existing building shall take place between 1st March and 31st August unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No demolition or removal of trees, hedges or shrubs shall take place between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

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).

8. **External Lighting (Bespoke Trigger)**

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated and maintained in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

9. **Wildlife Protection and Enhancement (Pre-commencement)**

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 Schwegler 1FF or 2FN bat box or similar will be built into the structure or installed on any suitable tree on site at least four metres above ground level and away from windows on the south facing elevation.
- b. A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of the dwelling
- c. The new hedgerow/s to be planted up with native species comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle. The hedgerow will be ancient coppiced and laid on reaching maturity and cut on a 3-year rotation thereafter.
- d. Where the landscaping scheme allows all new trees planted on site should ideally be from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech.

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).

10. Hours of Construction (Compliance)

No noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall occur outside of the following hours:

Mon-Fri 8:00 - 18:00

Sat 8:00 - 13:00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy DP7, DP8 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

11. Removal of Permitted Development Rights - Obscure Glazing (Compliance)

The two proposed first floor windows on the north (front) elevation, serving the bathroom and en-suite, shall be glazed with obscure glass as shown on drawing F1769/101. The windows shall also be non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be permanently retained in accordance with the requirements of this condition.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informative(s):

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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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 <https://buildingcontrol.somerset.gov.uk/>
5. Due to the former agricultural use 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. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.

Date of Decision: 27 February 2024

Mickey Green
Executive Director
Climate and Place

NOTES

Appeals to the Secretary of State

If you are aggrieved by the decision of the Local Planning Authority to refuse permission or to approve it subject to conditions, you may appeal to the Secretary of State under:

- Section 78 and 79 of The Town and Country Planning Act 1990,
- Section 20 of The Planning (Listed Building and Conservation Area) Act 1990,
- Regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012,
- Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007 or
- Section 195 of the Town and Country Planning Act 1990

You must appeal **within the following timescales**:

- **28 days** from the date on the decision notice for works to trees covered by Tree Preservation Orders (TPO) using the form available here:

[Appeal a decision about a tree preservation order: When you can appeal \(www.gov.uk\)](http://www.gov.uk)

- **8 weeks** from the date on the decision notice for Advertisement Consent using the form available here: [Appeal a decision about consent to display an advertisement: When you can appeal \(www.gov.uk\)](http://www.gov.uk)
- **12 weeks** from the date on the decision notice for householder applications using the form available here:

[Appeal a householder planning decision: Overview \(www.gov.uk\)](http://www.gov.uk)

- **12 weeks** from the date on the decision notice for minor commercial applications using the form available here:

[Appeal a minor commercial development decision: When you can appeal \(www.gov.uk\)](http://www.gov.uk)

- **6 months** from the date on the decision notice for Listed Building Consent using the form available here:

[Appeal a listed building consent decision: When you can appeal \(www.gov.uk\)](http://www.gov.uk)

- There is **no time limit** for submission of an appeal for a Certificate of Lawfulness or a Listed Building Certificate of Lawfulness using the form available here:

[Appeal a decision about a lawful development certificate: When you can appeal \(www.gov.uk\)](http://www.gov.uk)

- **6 months** from the date on the decision notice for all other applications using the form available here: [Appeal a planning decision \(www.gov.uk\)](http://www.gov.uk)

You can contact the Planning Inspectorate's customer support team if you need help using the online service above by email: enquiries@planninginspectorate.gov.uk or telephone: 0303 444 5000 Monday to Friday, 9:00am to 12:00pm (noon) (except public holidays).

Purchase Notices

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 and/or Section 32 of The Planning (Listed Building and Conservation Area) Act 1990.

Compensation

- In certain circumstances compensation may be claimed from the Local Planning Authority if permission or consent is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to them.
- These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990, Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and, in respect of Tree Preservation Orders, Section 203 of The Town and Country Planning Act 1990.

Notes in Respect of All Applications

- Although Planning Permission or Advertisement Consent may have been granted, should the proposed work involve the demolition, alteration or extension of a Listed Building, Listed Building Consent may also be required before the work can commence.
- If Planning Permission has been granted for the development, should this involve any work within the highway such as the construction of a vehicular access, the consent of the Somerset Council, as Highway Authority should also be obtained - [Roads, travel and parking \(somerset.gov.uk\)](#)
- This permission does not authorise you to stop up or divert a public right of way to enable the development permitted to be carried out. Separate legal steps are necessary for this and further information can be obtained from: [Public Rights of Way \(somerset.gov.uk\)](#)
- If planning permission has been granted for development involving the creation of one or more properties needing new addresses you will need to contact the Street Naming and Numbering department of Somerset Council, for assignment of the official address/es. Details are available at [Street naming and numbering \(somerset.gov.uk\)](#)