

SECTION 2 – ITEM 6

Application No:	19/P/0719/FUL	Target date:	21.06.19
Case officer:	Judith Porter	Extended date:	23.10.19
Parish/Ward:	Nailsea Nailsea West End	Ward Councillors:	Councillor Tonkin
Applicant:	Kenn Developments Limited		
Proposal:	Retention of building works to enable conversion of barn to 3 dwellings		
Site address:	Myrtle Farm, Nailsea Wall, Nailsea		

REFERRED BY COUNCILLOR TONKIN

Summary of recommendation

It is recommended that the application be **REFUSED**. The full recommendation is set out at the end of this report.

Background

This application relates to a site where a change of use was granted prior approval for the conversion of an agricultural building to 3 dwellings as permitted development. There are strict parameters for such conversions which indicate that the existing building must be retained and must be a genuine conversion, not a rebuild.

The former building has been effectively removed and a new building has been erected and the proposal is therefore tantamount to the retention of the new building and its use as 3 dwellings.

The Site

The application site is located to the south of Nailsea Wall Lane, close to the junction with Netherton Wood Lane. It lies to the north side of the other farm buildings of Myrtle Farm. It was formerly occupied by a chicken shed.

The Application

Full permission is now sought to retain a building which is currently under construction (and which is similar in design to the former agricultural building) and its use as three 2-bed detached single storey dwellings, together with access and parking as approved under 17/P/1017/CUPA.

Relevant Planning History

Year	Reference	Proposal	Decision
2017	17/P/1017/CUPA	Change of use of agricultural building to 3 dwellings with associated operational development	Prior approval granted

Policy Framework

The site is affected by the following constraints:

- Outside the settlement boundary for Nailsea
- Horseshoe bats Consultation band B

The Development Plan

North Somerset Core Strategy (NSCS) (adopted January 2017)

The following policies are particularly relevant to this proposal:

Policy Ref	Policy heading
CS1	Addressing climate change and carbon reduction
CS2	Delivering sustainable design and construction
CS3	Environmental impacts and flood risk management
CS4	Nature conservation
CS11	Parking
CS12	Achieving high quality design and place making
CS13	Scale of new housing
CS14	Distribution of new housing
CS33	Smaller settlements and countryside

Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016)

The following policies are particularly relevant to this proposal:

Policy	Policy heading
DM8	Nature Conservation
DM24	Safety, traffic and provision of infrastructure etc associated with development
DM28	Parking standards
DM32	High quality design and place making

Sites and Policies Plan Part 2: Site Allocations Plan (adopted 10 April 2018)

The following policies are particularly relevant to this proposal:

Policy	Policy heading
SA2	Settlement boundaries and extension of residential curtilages

Other material policy guidance

National Planning Policy Framework (NPPF) (February 2019)

The following is particularly relevant to this proposal:

Section No	Section heading
1	Introduction
2	Achieving Sustainable Development
4	Decision-taking
5	Delivering a sufficient supply of homes
12	Achieving well designed places
15	Conserving and enhancing the natural environment

Supplementary Planning Documents (SPD) and Development Plan Documents (DPD)

- Residential Design Guide (RDG1) Section 1: Protecting living conditions of neighbours SPD (adopted January 2013)
- North Somerset Parking Standards SPD (adopted November 2013)
- Creating sustainable buildings and places SPD (adopted March 2015)
- Biodiversity and Trees SPD (adopted December 2005)
- North Somerset and Mendip Horseshoe Bats SAC SPD

Consultations

Copies of representations received can be viewed on the council's website. This report contains summaries only.

Third Parties: 1 letter of objection has been received. The principal planning points made are as follows:

- Windows and doors are proposed close to the boundary with adjoining farmland. May cause problems with noise/ smell from animals in the field

Nailsea Town Council: "Recommend accept".

Principal Planning Issues

The principal planning issues in this case are (1) the principle of residential development in this location, (2) highway safety, (3) impact on living conditions, (4) character and design and (5) ecology.

Issue 1: The principle of residential development in this location

The site falls within the open countryside where the erection of new dwellings is not normally permitted in accordance with policies CS14 and CS33 of the Core Strategy. Policy CS33 restricts new residential development in the open countryside to replacement dwellings, residential subdivision, residential conversion of buildings where alternative economic use is inappropriate, or dwellings for essential rural workers.

In this case, the building which was to have been converted is no longer there. It is not a conversion of a building - it is effectively the erection of new dwellings. There is no fall-back position because the building which had the prior approval no longer exists and therefore cannot be converted. In this respect, it differs from cases where the former agricultural buildings remain on site and the potential conversion under permitted development rights is a clear material consideration.

The applicant has put forward the argument that the building was structurally unsound despite a previous survey indicating it was suitable for conversion and therefore had to be rebuilt. This was undertaken without the requisite planning permission and was in clear breach of the permitted development provisions (see below).

Whilst the net result of the rebuild would be similar to the conversion, the provision to convert agricultural buildings to dwellings as “permitted development” (i.e.: without the need for a planning application) under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 is an exception to normal planning policy, aimed at maximising the re-use of existing buildings that are suitable for conversion. Operational development associated with such proposals is strictly limited and the Planning Policy Guidance states:

“... the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.”

It is clearly not the intention of the permitted development right to allow new dwellings to be constructed in place of the agricultural building. To allow the current application could send a message that the permitted development provisions do not need to be complied with and could encourage future applications elsewhere to demolish existing agricultural buildings and build new dwellings locations where that would not normally be permissible.

The erection of new dwellings is contrary to the locational strategy set out in the development plan. The site is not accessible by public transport, access is via narrow lanes without footways and most journeys to access work or services would be made by private car, although it is acknowledged that there is a public house in close proximity. The proposed development is therefore contrary to Policies CS14 and CS33 of the North Somerset Core Strategy.

Issue 2: Highway safety

Whilst this application originally included a new access, this has now been deleted. Access and parking have reverted to those which were approved in the Prior Approval decision (17/P/1017/CUPA). Whilst the access has reduced visibility due to a tree, the access

emerges onto a road with a 30mph speed limit and street lights. It is considered that there would not be unacceptable highway safety impacts. Adequate parking is shown. It is therefore considered that the development complies with policy CS11 of the Core Strategy and policies DM24 and DM 28 of the North Somerset Sites and Policies Plan part 1.

Issue 3: Impact on living conditions

The proposed development does not adjoin residential properties and therefore there are no adverse impacts on the living conditions of neighbours. Concern has been raised about fenestration on the west elevation adjoining farmland. However, the windows are set back from the boundary and there are numerous occasions where windows adjoin farmland. The presence of farm animals in a field is to be expected when living in the countryside and it is considered that it would not result in unacceptable living conditions for new residents. The proposed development complies with the criteria relating to living conditions in Policy DM32 of the North Somerset Replacement Local Plan, advice in RDG1 and Policy CS3 of the Core Strategy.

Issue 4: Character and Design

The building is similar to the previous agricultural building as it was proposed to be converted, although there are some differences in fenestration. It does not appear out of character in the context of the farmyard setting. The size of gardens reflects that permitted by Class Q. Whilst this results in very limited gardens, this minimises the impact on landscape character and is therefore considered acceptable. It is therefore considered that the development complies with Policy CS12 of the Core Strategy and DM32 of the North Somerset Sites and Policies Plan Part 1.

Issue 5: Ecology

The previous building has already been demolished. Ecological enhancements such as bat roosts and bird nest boxes as proposed in the ecological report on the prior approval application could be the subject of conditions if the application was to be approved. Subject to this, the proposed development complies with policy CS4 of the North Somerset Core Strategy and Policy DM8 of the Sites and Policies Plan Part 1.

Issue 6 Setting of Listed Building

The proposal does not affect the setting of any listed buildings.

Issue 7 Community Infrastructure Levy

The Council's Community Infrastructure Levy (CIL) Charging Schedule took effect on 18 January 2018. This means that the development may be liable to pay the CIL. The Charging Schedule and supporting information can be viewed on the website at www.n-somerset.gov.uk/cil.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

The proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. However, the site is below the size

threshold for EIA screening and it is not in a sensitive area. A formal EIA screening opinion is not, therefore, required.

The Crime and Disorder Act 1998

The proposed development will not have a material detrimental impact upon crime and disorder.

Local Financial Considerations

The Localism Act 2011 amended section 70 of the Town and Country Planning Act 1990 so that local financial considerations are now a material consideration in the determination of planning applications. This development is expected to generate New Homes Bonus contributions for the authority. However, it is considered that the development plan and other material considerations, as set out elsewhere in this report, continue to be the matters that carry greatest weight in the determination of this application.

Conclusion and Planning Balance

The starting point for decision making is the development plan unless material considerations justify otherwise. The development plan policies are recent and therefore carry substantial weight. In this case, there is a direct conflict with the council's locational policies and the site is not in a sustainable location. This carries substantial weight.

The council cannot currently demonstrate a 5-year housing land supply. The "tilted balance" as set out in the NPPF therefore applies but in this case the adverse impacts of the development in terms of the locational strategy set out in the local plan outweigh the limited benefits that the additional dwellings would bring to housing supply. Three dwellings can only have a modest impact on the supply and there would only be very limited contribution to the local economy through additional support for services. Overall, the adverse impacts of the development clearly outweigh the benefits and planning permission should be refused.

It should be noted that if the application is refused enforcement action will be required to remove the unauthorised building.

RECOMMENDATION: REFUSE for the following reason:

1. The site lies in the open countryside in an area where new residential development is strictly controlled to protect the character of the countryside and prevent unsustainable development. The proposal does not accord with any of the exceptions listed in Policy CS33 of the Core Strategy. The site has limited access to local services and facilities, employment opportunities and public transport and future occupants would be reliant upon the private motor vehicle. The proposal would therefore result in an unsustainable pattern of development that conflicts with the locational strategy for development set out in policies CS14 and CS33 of the North Somerset Core Strategy.