

Democratic Services

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Date: 30 April 2012
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To: All Members of the Development Control Committee

Councillors:-Neil Butters, Nicholas Coombes, Gerry Curran, Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

Permanent Substitutes:- Councillors:Rob Appleyard, Sharon Ball, John Bull, Sarah Bevan, Sally Davis, Malcolm Lees, Dine Romero and Jeremy Sparks

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee:Wednesday, 9th May, 2012

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 9th May, 2012 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 8th May in the Meeting Room, Lewis House, Bath.

The rooms will be available for the meetings of political groups. Coffee etc. will be provided in the Group Rooms before the meeting.

The agenda is set out overleaf.

Yours sincerely

David Taylor
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath01225 - 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting David Taylor as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting David Taylor as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Development Control Committee - Wednesday, 9th May, 2012

at 2.00pm in the Brunswick Room - Guildhall, Bath

AGENDA

1. EMERGENCY EVACUATION PROCEDURE

The Chair will ask the Committee Administrator to draw attention to the emergency evacuation procedure as set out under Note 6

2. ELECTION OF VICE CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

Members who have an interest to declare are asked to state:

(a) the Item No and site in which they have an interest; (b) the nature of the interest; and (c) whether the interest is personal or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

(1) At the time of publication, no items had been submitted.

(2) To note that, regarding planning applications to be considered, members of the public who have given the requisite notice to the Committee Administrator will be able to make a statement to the Committee immediately before their respective applications are considered. There will be a time limit of 3 minutes for each proposal, ie 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

To deal with any petitions or questions from Councillors and where appropriate Co-opted Members

8. MINUTES: 30TH MARCH AND 11TH APRIL 2012(Pages 9 - 38)

To approve as a correct record the Minutes of the Special meeting held on Friday 30th March and the last meeting held on Wednesday 11th April 2012

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide an oral update

10. TREE PRESERVATION ORDER - GAIA, WIDCOMBE HILL, WIDCOMBE, BATH(Pages 39 - 76)

Referring to the Site Visit held on 30th April, to consider a report by the Senior Arboricultural Officer recommending that this Tree Preservation Order be confirmed without modification

11. TREE PRESERVATION ORDER - 108 BLOOMFIELD ROAD, LYNCOMBE, BATH(Pages 77 - 88)

To consider a report by the Senior Arboricultural Officer recommending that the Tree Preservation Order be confirmed without modification

12. PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE(Pages 89 - 166)

13. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES(Pages 167 - 178)

To note the report

14. LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY, BATH

To consider a report by the Divisional Director of Planning and Transport Development and the Planning and Environmental Law Manager

The Committee Administrator for this meeting is David Taylor who can be contacted on 01225 - 394414.

Member and Officer Conduct/Roles Protocol* **Development Control Committee**

*(*NB This is a brief supplementary guidance note not intended to replace or otherwise in any way contradict Standing Orders or any provision of the Local Authorities (Mode Code of Conduct) Order 2001 adopted by the Council on 21st February 2002 to which full reference should be made as appropriate).*

1. Declarations of Interest (Personal and Prejudicial)

These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officer advice (which can only be informal) to be sought and given prior to or outside the Meeting. In all cases the final decision is that of the individual Member.

2. Local Planning Code of Conduct

This document as approved by Full Council and previously noted by the Committee, supplements the above. Should any Member wish to state declare that further to the provisions of the Code (although not a personal or prejudicial interest) they will not vote on any particular issue(s), they should do so after (1) above.

3. Site Visits

- Under the Council's own Local Code, such visits should only take place when the expected benefit is substantial eg where difficult to visualize from the plans, or from written or oral submissions or the proposal is particularly contentious. Reasons for a site visit should be given and recorded. The attached note sets out the procedure.

4. Voting& Chair's Casting Vote

By law the Chair has a second or "casting" vote. It is recognised and confirmed by Convention within the Authority that the Chair's casting vote will not normally be exercised. A positive decision on all agenda items is, however, highly desirable in the planning context, although exercise of the Chair's casting vote to achieve this remains at the Chair's discretion.

Chairs and Members of the Committee should be mindful of the fact that the Authority has a statutory duty to determine planning applications. A tied vote leaves a planning decision undecided. This leaves the Authority at risk of appeal against non determination and/or leaving the matter in abeyance with no clearly recorded decision on a matter of public concern/interest.

The consequences of this could include (in an appeal against "non-determination case) the need for a report to be brought back before the Committee for an indication of what decision the Committee would have come to if it had been empowered to determine the application.

5. Officer Advice

Officers will advise the meeting as a whole (either of their own initiative or when called upon to do so) where appropriate to clarify issues of fact, law or policy. It is accepted practice that all comments will be addressed through the Chair and any subsequent Member queries addressed likewise.

6. Decisions Contrary to Policy and Officer Advice

There is a power (not a duty) for Officers to refer any such decision to a subsequent meeting of the Committee. This renders a decision of no effect until it is reconsidered by the Committee at a subsequent meeting when it can make such decision as it sees fit.

7. Officer Contact/Advice

If Members have any conduct or legal queries prior to the Meeting, then they can contact the following Legal Officers for guidance/assistance as appropriate (bearing in mind that informal Officer advice is best sought or given prior to or outside the Meeting) namely:-

1. Maggie Horrill, Planning and Environmental Law Manager
Tel. No. 01225 39 5174
2. Simon Barnes, Senior Legal Adviser
Tel. No. 01225 39 5176

General Member queries relating to the Agenda (including Public Speaking arrangements for example) should continue to be addressed to David Taylor, Committee Administrator Tel No. 01225 39 4414

**Planning and Environmental Law Manager, Planning Services Manager,
Democratic Services Manager, Solicitor to the Council
April 2002**

Site Visit Procedure

- 1) Any Member of the Development Control or local Member(s) may request at a meeting the deferral of any application (reported to Committee) for the purpose of holding a site visit.
- 2) The attendance at the site inspection is confined to Members of the Development Control Committee and the relevant affected local Member(s).
- 3) The purpose of the site visit is to view the proposal and enhance Members' knowledge of the site and its surroundings. Members will be professionally advised by Officers on site but no debate shall take place.
- 4) There are no formal votes or recommendations made.
- 5) There is no allowance for representation from the applicants or third parties on the site.
- 6) The application is reported back for decision at the next meeting of the Development Control Committee.
- 7) In relation to applications of a controversial nature, a site visit could take place before the application comes to Committee, if Officers feel this is necessary.

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DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF SPECIAL DEVELOPMENT CONTROL COMMITTEE

Friday, 30th March, 2012

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Liz Hardman, Eleanor Jackson, Les Kew, David Martin,
Douglas Nicol, Bryan Organ, Martin Veal, David Veale, Brian Webber and Dine Romero (In
place of Lisa Brett)

143 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

144 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

145 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Lisa Brett whose substitute
was Councillor Dine Romero

146 DECLARATIONS OF INTEREST

There were no declarations of interest

147 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There were no items of Urgent Business

**148 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS,
PETITIONS OR QUESTIONS**

The Senior Democratic Services Officer informed the meeting that there were
various members of the public etc wishing to make statements on land at the former
Fullers Earthworks which was the subject matter of this Special meeting and that
they would be able to do so when reaching that item on the Agenda

149 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

150 LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY, BATH - UPDATE REPORT

The Chair of the Committee introduced the matter and referred to the special meeting of this Committee held on Wednesday 5th January 2012 where Members considered a joint report of the Divisional Director of Planning and Transport Development and the Planning and Environmental Law Manager. He advised the Committee that this report arose from the resolution of its January meeting and its purpose was to update Members on the progress of negotiations to bring forward a Residual Waste Facility (RWF) on land at the former Fullers Earthworks and to address the further points of the Committee's Resolution as set out in this report. The report recommended (1) that the Committee note that material progress had been made in relation to its resolution of 5th January 2012 and that Officers were making progress in negotiations with the site owner's Agent with a view to bringing forward a RWF on this site; and (2) in these circumstances, if the Members agreed with the Officer Recommendation, that the Committee resolve (a) that Officers continue to negotiate with the site owner's Agent to secure the delivery of a RWF on the land; and (b) that, in light of progress on the negotiations, it was not currently considered to be expedient to take enforcement action against the breaches of planning control currently identified at the site as set out in the previous report.

Mr Harwood, the Council's Planning Consultant, reported on the matter by means of a power point presentation and took the Committee through aerial photographs taken over recent years and some taken at the Site Visit attended by Members on 19th March this year. He also referred to the Update Report (attached as *Appendix 1*) advising Committee Members of the introduction of the National Planning Policy Framework (NPPF), reported on further representations received and made reference to a further letter that had been received from Harrison Grant, Solicitors acting on behalf of Protect Bath and Victims of Fullers Earth, which had been addressed to the Chair of the Committee and which it was understood had been sent direct to all the Members of the Committee.

Mr Herbert, the Council's Planning Consultant, updated the Committee reporting, by means of a power point presentation, on the pre-application proposals that had been received. He advised that these would go through the development control process commencing with a Development Team meeting on 17th April, and were accompanied by a request for a Scoping Opinion in order that the Environmental Impact Assessment could be completed. The applicant had indicated that, following the pre-application process, an outline planning application would be submitted in November 2012.

The public speakers made their statements on the matter (the Speakers List is attached as *Appendix 2*) and then the Development Manager commented on some of the issues raised in these statements. On hearing the reports, some Members posed questions to which appropriate Officers responded.

The Chair opened the matter up for debate. Councillor David Veale, as Ward Member for Bathavon West, in which the site is situated, spoke first. He expressed concern regarding the uncertainty felt by residents on apparent inaction by the Council over the coming months and the establishment of the legality of uses of the site. Councillor Martin Veal commented on the proposed RWF and raised concern over the possible date of immunity from enforcement action. He expressed concern

over the Council's time and resources that this matter was taking but appreciated that Officers had been working positively to address the alleged breaches of planning control. There was still some doubt regarding the timescale of the pre-application process and he therefore felt that the Officers' position needed to be strengthened. He therefore moved that an enforcement action plan be proposed by Officers against apparent breaches of planning control which could be considered by the Committee at its May meeting but on the basis that such action could be suspended or delayed if matters could be resolved. This was seconded by Councillor Neil Butters.

The Planning and Environmental Law Manager sought clarity on the motion and after such clarification advised that it would be necessary to consider the expediency of whether or not to take enforcement action and that such an issue could not be predetermined. It would have to be a matter for the Committee at its May meeting to consider this. Members agreed although some Members felt that the current negotiations concerning the RWF shouldn't delay proceedings and progress should be made regarding alleged breaches of planning control. The Development Manager advised that the matter could be returned to the Committee in May at either the ordinary or a special meeting at which various issues could be addressed including policy issues, the expediency of whether or not to take enforcement action against the alleged existing breaches of planning control, an update on progress on negotiations, the immunity issue, the pre-application process and any additional evidence provided. The Chair reminded the Members of the High Court Judge's previous ruling against the Council and therefore it would not be wise to risk being in that situation again. The Planning and Environmental Law Manager advised that the negotiations and the allocation of land in the Joint Waste Core Strategy (JWCS) were material considerations which had to be taken into account. There were other ways open to the Council to reconcile matters such as an application being acceptable to the Council as local planning authority but it was appreciated that Members did have concerns regarding the question of immunity.

In the light of discussion, Councillor Martin Veal amended his original motion by moving the Recommendation in the Report but adding "today" after the words "... not considered expedient to take enforcement action ..." in Recommendation 8.2(b); adding that an update report be submitted to the May Committee to ensure that no immunity occurs, and that the expediency of whether or not to take enforcement action be considered in the light of the update report. The motion was seconded by Councillor Neil Butters.

Members briefly debated the motion. The Development Manager stated that the expediency issue would need careful consideration at the meeting in May. The Chair summed up the discussion and it was accordingly:

RESOLVED

- (1) To note that material progress had been made in relation to the Committee's resolution of 5th January 2012 and that Officers were making progress in negotiations with the site owner's Agent with a view to bringing forward a Residual Waste Facility on this site;
- (2) That Officers continue to work with the site owner's Agent to secure the delivery of a Residual Waste Facility on the land;

- (3) That, in the light of progress on negotiations, it was not considered expedient to take enforcement action today against the breaches of planning control currently identified at the site as set out in the previous report to the Committee;
- (4) That an update report be submitted to the Committee in May to ensure that no immunity from enforcement action occurs in respect of the alleged breaches of planning control; and
- (5) That enforcement action be considered and appropriate weight be given to the issue of expediency in the light of the update report

(Note: Voting: 11 in favour and 1 against)

The meeting ended at 3.40pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

30 March 2012

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

LAND AT FORMER FULLERS EARTH WORKS, FOSSEWAY, COMBE HAY,
BATH

POLICY UPDATE

National Planning Policy Framework (NPPF) – March 2012

On 27th March 2012 the Government published the NPPF.

The NPPF policies apply immediately and are therefore material considerations even though the continuation of the plan led approach is confirmed. There is a “presumption in favour of sustainable development” which it explains should be the “golden thread” running through plan making and decision-taking. In most respects in relation to this case, previous government advice is re-affirmed but in some instances simplified.

The NPPF does not materially affect the recommendations in the main agenda report.

REPRESENTATIONS

A letter has been received from a local resident raising the following matters:

- Lack of responses about real concerns to do with a potential residual waste site;
- The sky-line is altered by the piles of spoil and rubbish,
- There are night time fires omitting foul smelling smoke, loud industrial vehicle beepers throughout the day,
- Concern about aquifers and springs,
- Off road motor cycling takes place on land adjoining the site during evenings and weekends with a track and in the last 7 or more ears never completely stopped. At times the noise is so loud that you can't talk to person next to you.
- By not enforcing against illegal and anti-social activities and instead of a residual waste site which is not needed, the beautiful countryside is being left to the mercy of the current site owners.
- The council need to get the site completely cleared up, stop harassment of its neighbours and ensure the B2 use is contained within the official area only,

Another e-mail from another resident explained concerns about:

- there being no new material to base new representations on,
- that the committee should not be in the dark about true activities taking place at the site for another meeting; and
- that it is clear that the time left to protect the green belt, local communities and wildlife is being bled dry in the deluded belief that an approved plan will be in place by 1 February 2013.

RESPONSES TO REPRESENTATIONS

The representations are addressed by the current and previous reports.

THE USE OF LAND FOR MOTOR CYCLES

The Council has received complaints with regard to the use of land by motor cycles. These complaints are under investigation and do not affect the recommendations in the main agenda report.

**SPEAKERS LIST
BATH AND NORTH EAST SOMERSET COUNCIL**

**MEMBERS OF THE PUBLIC ETC WISHING TO MAKE A STATEMENT AT
THE MEETING OF THE SPECIAL DEVELOPMENT CONTROL
COMMITTEE ON FRIDAY 30TH MARCH 2012**

SITE/REPORT NAME/REPRESENTING STATEMENT

<p>Land at former Fullers Earthworks, Fosseyway, Combe Hay, Bath (Report 8)</p>	<p>Peter Duppa Miller, Clerk to Combe Hay Parish Council</p> <p>Caroline Kay, Chief Executive, Bath Preservation Trust</p> <p>Philip Harrison</p> <p>Hugh Mackay</p> <p>Trevor Osborne</p> <p>Debbie Tripley, Harrison Grant(Solicitors acting on behalf of Protect Bath and Victims of Fullers Earth)</p> <p>John White (Owner's Agent)</p>	<p>Statements – Up to 3 minutes each</p>

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DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 11th April, 2012

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Nicholas Coombes, Sally Davis (Substitute for David Veale)
Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ,
Martin Veal and Brian Webber

Also in attendance: Councillor Vic Pritchard

151 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

152 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

153 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor David Veale whose substitute was Councillor Sally Davis

154 DECLARATIONS OF INTEREST

There was none

155 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

156 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

The Senior Democratic Services Officer informed the meeting that there was a member of the public wishing to make a statement on Report 12 relating to a Tree Preservation Order at Gaia, Widcombe Hill, Bath, who would be able to do so when reaching that item on the Agenda. There were various members of the public etc wishing to make statements on planning applications in Report 10 and they would be able to make their statements when reaching those items in that Report.

157 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

158 MINUTES: 14TH MARCH 2012

The Minutes of the meeting held on Wednesday 14th March 2012 were approved as a correct record and were signed by the Chair

159 MAJOR DEVELOPMENTS

The Chair stated that the Senior Professional – Major Development had no matters on which to update the Committee but if Members had any queries, they could contact the Officer direct

160 PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- A report by the Development Manager on various applications for planning permission
- Oral statements by members of the public etc on Item Nos 2, 3 and 6, the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Development Manager on Item Nos 3-6, a copy of which Report is attached as *Appendix 2* to these Minutes

RESOLVED that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as *Appendix 3* to these Minutes.

Item 1 The Galleries Shop, Freshford Lane, Freshford – Erection of extension to Freshford Shop to increase café area and decking – The Development Team Leader reported on this application and the recommendation to Permit with conditions. He reminded Members that the application had been considered at the March ordinary meeting where Officers had recommended Refusal. The Committee deferred the application for it to be advertised as a Departure from the Development Plan and to give the applicants the opportunity to demonstrate very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness. However since that meeting, the National Planning Policy Framework had been published which allowed exceptions including “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.” This enabled Officers to recommend that permission now be granted. However, the Departure advertisement did not expire until the day after this meeting and therefore he amended the Recommendation to Delegate to Officers subject to no new objections being received up to the expiry of the advertisement period and subject to the Conditions set out in the Report.

After some clarification by Members, Councillor Neil Butters moved the revised Recommendation which was seconded by Councillor Martin Veal. Following a brief debate, the motion was put to the vote and was carried, voting being 11 in favour and 1 against.

Item 2 Folly Farm, Folly Lane, Stowey – Change of use from Class C2 to Mixed Use combining Classes C2/D2 for residential education, wedding ceremonies and receptions with ancillary café, teaching and workshop (Retrospective) –

The Case Officer reported on this application and his Recommendation to Permit with conditions. He reminded Members that the application had been considered at the February Committee meeting. However, third parties had not received notification letters of the meeting which had therefore denied them the opportunity to make representation. He referred Members to the receipt of a further letter of objection resulting from consultation responses received the day before and which had been passed to the Chair and the Group Leaders. He summarised the content of the letter bringing the Committee's attention to the salient points and the traffic count submitted in the letter of representation. He advised Members that this did not alter his Recommendation; however, he recommended that a further Condition be added to limit the number of weekend wedding ceremonies to 35 per year.

The public speaker made her statement supporting the proposal which was followed by a statement by the Ward Councillor Vic Pritchard.

Members asked questions about the proposal to which the Case Officer responded. Councillor Eleanor Jackson supported the proposal and moved the Officer Recommendation which was seconded by Councillor Bryan Organ. After a brief discussion, the motion was put to the vote and it was carried, voting being unanimously in favour.

Item 3 Sainsbury's Supermarkets Ltd, 170 Frome Road, Odd Down, Bath – Variation of Condition 29 of application 09/02389/OUT to allow deliveries from 0600 to 2300 hours seven days a week including Bank Holidays (Mixed use development comprising the erection of (1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part); and (2) the erection of "extra care" retirement housing (Use Class C2) (appearance, landscaping, layout and scale reserved for future consideration on this part) – The Planning Officer reported on this application and the Recommendation to grant temporary permission with conditions. The Update Report recommended an additional condition relating to the service yard gate. The public speaker then made his statement in support of the application.

Members asked questions about the proposal to which the Officer responded. Councillor Bryan Organ supported the proposal and therefore moved the Officer Recommendation emphasising that the proposal would need to be reviewed after 6 months. The motion was seconded by Councillor Les Kew.

Members debated the motion. Discussion centred on possible noise and the impact on neighbours and the residents in the "extra care" retirement housing that has yet to be built. The Development Manager responded on queries regarding a noise assessment by a competent person (Condition 27 refers). She also advised that the legislation specifically allowed for local planning authorities to grant temporary planning permissions in order to allow the impact of development proposals to be monitored, particularly where residential amenity might be affected. This was an example where such monitoring would provide evidence as to whether the extended hours were harmful to amenity or not. Some Members considered that there should be a breakdown of delivery/arrival times and the number of delivery lorries. The

noise assessment should also take into account the impact of noise from lorries idling or reversing with beepers etc. The motion was then put to the vote. Voting: 5 in favour and 6 against with 1 abstention. Motion lost.

Councillor Nicholas Coombes moved that permission be refused on the grounds that the proposal would be detrimental to the amenities of local residents and potential residents in the “extra care” housing. This was seconded by Councillor David Martin. The motion was put to the vote. Voting: 6 in favour and 5 against with 1 abstention. Motion carried.

Item 4 Land adjacent to Kingswell, Eckweek Lane, Peasedown – Erection of 2 dwellings (Resubmission) – The Case Officer reported on this application and her recommendation to Refuse permission.

Councillor Eleanor Jackson moved the Officer Recommendation to Refuse emphasising that the design was unsuitable and didn't reflect surrounding properties as included in the recommended reasons for refusal. This was seconded by Councillor Les Kew.

After a brief discussion, the motion was put to the vote and was carried unanimously.

Item 5 Parcel 9015 Rowley Farm Lane, Combe Hay – Erection of 250 solar pv panels in a ground mounted array – This application had been withdrawn by the applicant prior to the meeting and therefore was not considered.

Item 6 Bath Urban Area, Various Streets – Erection of 9 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 – 01/11/2012) – The Case Officer reported on this application and his Recommendation to grant permission (for the period applied for) with conditions. He informed Members that the siting of a sculpture at The Circus had been withdrawn by the applicant. The Update Report provided information on a revised number of installations ie 9 instead of 15; third party comments; updates on the proposed sculptures 4a, 4b, 6, 8 and 9; and added an Informative to the Recommendation. The public speakers then made their statements in support of the proposal.

Members discussed the application. Councillor Neil Butters referred to possible security issues with the sculptures. He then moved the Officer recommendation which was seconded by Councillor Bryan Organ.

Members debated the motion. There was discussion regarding the locations for some of the sculptures. The motion was then put to the vote and it was carried unanimously.

161 TREE PRESERVATION ORDER - LAND ADJACENT TO TESCO, OLD MILLS, PAULTON

The Committee considered the report of the Senior Arboricultural Officer which (1) referred to a Tree Preservation Order provisionally made on 23rd November 2011 to protect a belt of trees and an individual tree on land adjoining Tesco, Old Mills, Paulton as they made a significant contribution to the landscape and amenity of the area; (2) advised that an objection to the Order had been received on behalf of

Tesco in relation to the north-south section of the belt of trees only; (3) informed that Paulton Parish Council supported the Order; and (4) considered the objection and recommended that the Order be confirmed without modification to ensure the retention of the trees.

The Senior Arboricultural Officer reported on the matter by means of a power point presentation. Members discussed the matter. Councillor Liz Hardman supported the Tree Preservation Order and therefore moved the Officer recommendation which was seconded by Councillor Martin Veal. Members briefly debated the motion.

RESOLVED that the Tree Preservation Order entitled "Bath and North East Somerset Council (Land adjacent to Tesco, Old Mills, Paulton No 12) Tree Preservation Order 2011" be confirmed without modification.

162 TREE PRESERVATION ORDER - GAIA, WIDCOMBE HILL, BATH

The Committee considered the report of the Senior Arboricultural Officer which (1) referred to a Tree Preservation Order provisionally made on 15th December 2011 to protect a group of trees on land at Gaia, Widcombe Hill, Bath, as they made a significant contribution to the landscape and amenity of the area; (2) advised that an objection to the Order had been made by the owners of the land; (3) informed that a number of local residents supported the Tree Preservation Order; and (4) considered the objection and recommended that the Order be confirmed without modification to ensure the retention of the trees.

The Senior Arboricultural Officer reported on the matter by means of a powerpoint presentation. The owner of the property made a statement against the Order being confirmed. The Officer answered queries by Members and the Chair read out a statement by the Ward Councillor Ian Gilchrist who couldn't attend the meeting and who supported the owner's objections. Members discussed the matter. Councillor Bryan Organ considered that it would be useful to see the site and the trees and therefore moved that consideration be deferred for a Site Visit which was seconded by Councillor Martin Veal.

RESOLVED to defer consideration for a Site Visit

163 QUARTERLY PERFORMANCE REPORT - OCTOBER TO DECEMBER 2011

Members asked questions about various aspects of the Performance Report to which the Development Manager responded. Regarding new posts being created in the Development Control Section, Councillor Martin Veal stated that it would be useful if they could attend a meeting of the Committee as soon as they took up their positions. He congratulated the Development Manager and her Team on dealing with the number of planning applications given the workload levels. The Chair on behalf of the Committee echoed these sentiments. Councillor Les Kew stated that it would also be useful if Committee Members could meet the newly recruited Officers after the Committee meeting that they would be attending.

The Committee noted the report.

164 NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES

The Committee noted the report

The meeting ended at 4.30 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

11 April 2012

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

ITEM 10

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
03	11/04808/VAR	Sainsbury's Supermarkets Ltd 170 Frome Road, Odd Down, Bath

The report refers to the installation of a service yard gate but, no details of how this will safeguard the amenity of neighbouring occupiers has been provided. In view of this, the following condition should be added to the recommended conditions in the Officer Report.

Details of the new solid service yard gate shall be submitted to and approved by the Local Planning Authority prior to deliveries taking place within the new extended delivery hours. The gate thereafter shall be retained in accordance with the approved details for the duration of the operation of the extended delivery hours.

Reason: To safeguard the amenity of nearby occupiers.

Item No.	Application No.	Address
05	11/04754/FUL	Parcel 9015, Rowley Farm Lane Combe Hay, Bath

This application has been withdrawn by the applicant.

Item No.	Application No.	Address
06	12/00495/FUL	Bath Urban Area, Various Streets

Application Description Update

To reflect the reduction in the number of installations being applied for the description of the application has been changed to "Erection of 9 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 - 01/11/2012)"

Third Party Comments Update

7x emails of support for this project have been received although these do not raise planning issues.

1x Updated letter of objection received noting the following points:

- The reduction in statue numbers and the removal of those in the most sensitive locations is welcomed.
- There are no drawings showing their precise positioning at each location and the orientation of the statues.
- The Little Theatre is Grade II listed and listed building consent may be required if the statue is to be fixed to the building. No details of the proposed fixings have been provided.
- The two statues proposed for the historic lamp posts in the Circus are wholly unacceptable. This is a particularly sensitive place and the lamp posts are heritage assets.
- Parade Gardens, Botanic Gardens and Victoria Park are Grade II listed. Is listed building consent required for these locations?

Proposal Update

Sculptures 4a and 4b

Following concerns raised by the Highway Officer and Street Lighting Team Leader it is confirmed that at 30kg+ the cast metal lampposts in The Circus cannot accommodate the additional weight and that the potential for excessive loading of the structures could cause catastrophic failure now or at some stage in the future due to fatigue. In light of these observations (and having considered alternative options for sites in The Circus) the applicant has confirmed it is not feasible to pursue these two sculptures and so they have formally withdrawn the two Circus sites (Sculptures 4a and 4b on the site location plan, item 4 the Committee Report as confirmed by drawing 1131/12 Rev A.)

Sculpture 6

There has been concern raised in respect of the sculpture on top of the canopy above the entrance to the Little Theatre, how it would be fixed in place and whether a separate listed building consent would be required. This point has been raised with the applicant who has confirmed that it is to be free standing and not attached to the listed fabric of the building. On the basis of

this information, it is considered that Sculpture 6 does not require listed building consent in its own right however the applicant should be advised that in the event that fixings to the building are required, a listed building application should be submitted for consideration. The granting of planning permission in no way conveys the granting of listed building consent.

Sculptures 8 and 9

The question has been raised as to whether listed building consent is required for the two sites in the Botanical Gardens and on Gravel Walk. For clarification, having discussed this matter with the Historic Environment Team Leader it is considered that as these sculptures would be temporary and freestanding and that they do not affect the fabric or setting of a listing building, listed building consent is not required.

Addition of an Informative

In light of comments received in respect of this application it is recommended that an informative is added to any permission to clarify that the granting of planning permission in no way conveys the granting of listed building consent.

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**SPEAKERS LIST
BATH AND NORTH EAST SOMERSET COUNCIL**

**MEMBERS OF THE PUBLIC ETC WISHING TO MAKE STATEMENTS AT THE
MEETING OF THE DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY
11TH APRIL 2012**

SITE/REPORT NAME/REPRESENTING FOR/AGAINST

SITE/REPORT	NAME/REPRESENTING	FOR/AGAINST
PLANS LIST – REPORT 10		
Folly Farm, Folly Lane, Stowey (Item 2, Pages 56-63)	Lisa Jackson, Jackson Planning (Applicants' Agents)	For
Sainsbury's Supermarket, 170 Frome Road, Odd Down, Bath (Item 3, Pages 64-76)	David Lowin, Director, WYG (Applicants' Agents)	For
Various Streets, Bath Urban Area (Item 6, Pages 88-95)	Joanna Robinson, Bath Preservation Trust <u>AND</u> Vaughan Thompson (Applicant's Agent)	For – To share 3 minutes
TREE PRESERVATION ORDER – REPORT 12		
Gaia, Widcombe Hill, Bath	Mark Baptist(Owner)	Statement

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BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

11th April 2012

DECISIONS

Item No:	01	
Application No:	12/00207/FUL	
Site Location:	The Galleries Shop, Freshford Lane, Freshford, Bath	
Ward: Bathavon South	Parish: Freshford	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of extension to Freshford Shop to increase cafe area and decking	
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way,	
Applicant:	Galleries Ltd	
Expiry Date:	12th March 2012	
Case Officer:	Tessa Hampden	

DECISION Delegate to PERMIT

Authorise the Development Manager to PERMIT subject to no new objections being received in response to the Departure Advertisement and with the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 The materials to be used for the external surfaces of the extension shall match those of the existing building.

Reason: In the interest of the character and appearance of the building and the surrounding area.

3 No more than 46m² of the total floorspace of the building hereby approved shall be used for A3 purposes.

Reason: In order to ensure that the main use of the development remains as a shop.

4 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST: 426/S/01-05 and 426/P/01-04 date stamped 16th January 2012

REASONS FOR GRANTING APPROVAL

1. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A D.2, D.4, SC1, ET7, S4, S9, GB1, GB2, NE1, NE2, NE5, NE16, BH6, T1 and T24 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

The NPPF was published on the 27th March 2012 and the impact of this on the above policies has been fully considered in the assessment of the planning application.

2. As the extension/decking is considered to represent a proportionate addition to the original building, the development is not considered to result in inappropriate development in the Green Belt or adversely affect openness. Further the NPPF places significant weight on supporting a prosperous rural economy, and with this in mind, there are no objections to the development in principle. There is not considered to be significant harm to the character and appearance of the building, or the rural character of the area. The development would not result in any undue harm to highway safety or to the residential amenity currently enjoyed by the neighbouring occupiers.

Item No:	02	
Application No:	10/04399/FUL	
Site Location:	Folly Farm, Folly Lane, Stowey, Bristol	
Ward: Chew Valley South	Parish: Stowey Sutton	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Change of use from Class C2 to Mixed Use combining Classes C2/D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)	
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Water Source Areas,	
Applicant:	Avon Wildlife Trust	
Expiry Date:	16th February 2011	
Case Officer:	Andy Pegler	

DECISION PERMIT with the following conditions:

1 The residential accommodation and café hereby permitted shall only be occupied or used ancillary to and in connection with the use of the site authorised by this planning

permission and shall not be occupied or used independently or separately for any other purposes.

Reason: To prevent an over-intensive use of the site and to restrict additional traffic generation.

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for the purposes specified in the application and for no other purpose.

Reason: The approved use only has been found to be acceptable in this location and other uses may require further detailed consideration by the Local Planning Authority.

3 The development hereby approved shall operate in accordance with a Noise Management Plan which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the surrounding area.

4 The use of the site for wedding ceremonies and receptions hereby approved shall not operate outside the hours of 09:00 to 02:00 Monday to Saturday and 09:00 to 23:00 Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no marquees or other free standing buildings shall be erected within the curtilage of Folly Farm, unless a further planning permission has been granted by the Local Planning Authority.

Reason: To safeguard the openness of the Green Belt

6 Within three months of the date of permission and notwithstanding the currently submitted details the applicant shall submit;

(i) A document "Wildlife Protection Guidance and Procedures at Folly Farm Centre" providing supplementary guidance to centre users, staff and managers for prevention of harm to bats and bat activity, and protection of other wildlife including nesting birds and great crested newts, to be adhered to at all times by all parties

(ii) A programme of implementation of the recommendations for changes to lighting as set out in the "Bat Roost Inspection and Activity Survey, Folly Farm Centre Buildings" Craig Stenson AWT Consultancy August 2011, and implementation of recommendations of the "Protected Species and Potential Impacts of Weddings at Folly Farm: Assessment, recommendations, actions" AWT September 2011

(iii) Evidence of implementation and completion of the lighting changes referenced at point (ii)

All uses at Folly Farm Centre shall thereafter operate in accordance with the approved Guidance and Procedure unless otherwise first approved in writing by the local planning authority

Reason: In order to safeguard protected species at and around the site.

7 Wedding functions shall take place only between Friday and Sunday and shall not exceed 35 occasions per year, unless otherwise approved in writing by the Local Planning Authority.

Reason: In accordance with the statement dated 25 January 2011 submitted on behalf of the applicant; and to enable the Local Planning Authority to consider impacts resulting from an intensification of the use hereby approved.

8 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST: This decision relates to the following drawings: 634/PL/101A date stamped 19 October 2010; and 634/BR.2D, 634/BR.3C and AWTF 001 date stamped 17 November 2010.

REASONS FOR APPROVAL

The application which is made retrospectively is to change the use of the site to allow a mixed use combining classes C2/D2 to allow residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities. The proposed use would for the most part utilise existing buildings and car park areas and subject to a condition to restrict the erection of marquees or other temporary structures then the development will not harm the openness of the green belt or conflict with the purposes of including land within the green belt. The Highway Department's advice is that the level of traffic generated from this proposal and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to justify refusal of the application on highway grounds. Large amounts of traffic would be generated outside of peak hours and movements would tend to be tidal in their nature.

In respect of neighbouring amenity it is noted that residents are located some distance from the complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified noise. Further measures have also been employed to minimise noise of cars crossing a cattle grid. A noise management plan is to be required by planning condition. It is accepted that cars will pass residential properties on the lane during late hours however these properties are located close to the main road and refusal of planning permission cannot be justified in this respect. The implications of the development on wildlife has been considered and a condition is recommended in this regard.

The decision to grant approval has taken account of the Development Plan and any approved Supplementary Planning Documents. The proposal is in accordance with Policies GB.1, GB.2, NE.8, NE.9, NE.11, ET.9, ES.12, D.2 and T.24 of the Bath & North East Somerset Local Plan (including Minerals and Waste Policies) 2007.

Item No:	03
Application No:	11/04808/VAR
Site Location:	Sainsbury's Supermarket Limited, 170 Frome Road, Odd Down, Bath
Ward: Lyncombe	Parish: N/A LB Grade: N/A
Application Type:	Application for Variation of Condition
Proposal:	Variation of condition 29 of application 09/02389/OUT to allow deliveries from 06:00 to 23:00 seven days a week including bank holidays (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part).)
Constraints:	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, World Heritage Site,
Applicant:	Sainsbury's Supermarkets Ltd
Expiry Date:	13th February 2012
Case Officer:	Jonathan Fletcher

DECISION REFUSE for the following reasons:

1 The proposed variation of the delivery hours will have a significant adverse impact on the residential amenity of existing and future occupiers, due to noise from delivery vehicles. This is contrary to Policy D.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

PLANS LIST: CHQ.09.8579 - PL200, -PL201, - PL202E, - PL203B, - PL204, - PL205A, - PL206A, - PL207, - PL208, - PL209A, - PL210B, - PL211B, - PL212A, 686 - 01, 686 - 02A and 686 - 03B.

Item No:	04
Application No:	12/00351/FUL
Site Location:	Land Adjacent To Kingswell, Eckweek Lane, Peasedown St. John, Bath
Ward:	Peasedown St John
Parish:	Peasedown St John
Application Type:	Full Application
Proposal:	Erection of 2no. dwellings (Resubmission)
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon,
Applicant:	Mr Stephen Gardner
Expiry Date:	15th March 2012
Case Officer:	Rebecca Roberts

DECISION REFUSE for the following reasons:

1 The proposed residential development of this site located in the countryside outside of any housing development boundary, is not considered to be a rural a rural exception site and is therefore contrary to Policies HG.9 and HG.10 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

2 Due to the scale and layout of the proposed development, it would result in a cramped built form which is detrimental to the character and appearance of this locality and does not reflect the the local context contrary to policy D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

PLANS LIST: This decision relates to drawing no's 7083/16419, 7083/16366/B and the design and access statement date stamped 19th January 2012.

Item No:	05
Application No:	11/04754/FUL
Site Location:	Parcel 9015, Rowley Farm Lane, Combe Hay, Bath
Ward:	Bathavon West
Parish:	Combe Hay
LB Grade:	II
Application Type:	Full Application
Proposal:	Installation of 250 solar PV panels in a ground mounted array.
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Regionally Important Geological Site RIG, Sites of Nature Conservation Imp (SN),
Applicant:	Mr & Mrs Philip Honey
Expiry Date:	23rd February 2012
Case Officer:	Suzanne D'Arcy

DECISION Application Withdrawn

Item No:	06
Application No:	12/00495/FUL
Site Location:	Bath Urban Area, Various Streets
Ward: Newbridge	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Erection of 9 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 - 01/11/2012)
Constraints:	Agric Land Class 3b,4,5, Scheduled Ancient Monument SAM, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, General Development Site, Hotspring Protection, Listed Building, Local Shops, Prime Shop Front, Railway, World Heritage Site,
Applicant:	Art And The Edge CIC
Expiry Date:	29th March 2012
Case Officer:	Richard Stott

DECISION PERMIT with the following conditions:

1 This permission shall expire on 1st November 2012, the developments hereby permitted shall be removed and the use hereby permitted discontinued, in the case of installation directly on the land, the ground shall be restored to its former state.

Reason: These installations form part of an art project to coincide with the 2012 Olympics and will no longer be relevant or needed after the Olympics have finished.

2 Sculpture 8 in the Botanical Gardens and Sculpture 10 in Green Park shall be no higher than 4m above ground level and no wider than 3m.

Reason: in the interest of preserving the character and appearance of the Conservation Area and the setting of the World Heritage Site.

3 Sculpture 9 on Gravel Walk shall be no higher than 2m above ground level and no wider than 1.5m.

Reason: in the interest of preserving the character and appearance of this part of the Conservation Area and the setting of the adjacent Royal Crescent.

4 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST: This decision relates to the Revised Design and Access Statement, and to drawings 1131/01 Rev A, 1131/02 Rev A, 1131/04 Rev A, 1131/05 Rev A, 1131/06 Rev A, 1131/06a, 1131/09 Rev A, 1131/012 Rev A, 1131/013 Rev A, 1131/014 Rev A and 1131/015 Rev A date stamped 30th March 2011

INFORMATIVE

The granting of planning permission in no way conveys the granting of listed building consent.

REASONS FOR GRANTING APPROVAL

1. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the policies set out below at A.
2. All other material considerations, including the views of third parties, have been considered and they do not outweigh the reasons for approving the proposed development.
3. The proposed installations, forming part of a wider arts project and walking tour associated with the 2012 Olympic Games will promote the exploration of Bath and encourage recreational walking around the city, to the benefit of promoting healthy communities, one of the core objectives of the NPPF, 2012.
4. The proposed installations are carefully sited and designed so as not to adversely harm the setting of the World Heritage Site or character, fabric and setting of the various listed buildings around the city. By reason of their size, shape, mass and positions, the installations will not adversely harm the character of the various streetscapes and will preserve the character and appearance of the wider World Heritage Site.

A

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE POLICIES ADOPTED FOR OCTOBER 2007

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and their Settings

BH.6 Conservation Area

BH.9 Parks and Gardens of Historic Interest

BH.13 Significant Archaeological Remains in Bath

T.24 Development Control and Access

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B4 World Heritage Site

Policies D.2, D.4, BH.2, BH.6, BH.9, BH.13 and T.24 are Saved Local Plan Policies

SUPPLEMENTARY GUIDANCE AND STRATEGIES

Bath & North East Somerset Public Art Policy and Strategy, 2010

World Heritage Site Management Plan, 2011

Bath Public Realm and Movement Strategy, 2010

NATIONAL PLANNING POLICY FRAMEWORK, 2012

The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's)

Chapter 7. Requiring Good Design

Chapter 8. Promoting Healthy Communities

Chapter 12. Conserving and Enhancing the Historic Environment

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	9 May 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011
WARD:	Widcombe
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
Plan of Site	
Copy of letter of objection to the Tree Preservation Order	
Copy of correspondence in support of the Tree Preservation Order	

1 THE ISSUE

1.1 An objection has been received from the owners following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011 (“the TPO”), which was provisionally made on the 15 December 2011 to protect a group of three trees which make a significant contribution to the landscape and amenity of the area.

1.2 This item was brought to the Committee on 11 April 2012 when a decision was made to undertake a site visit.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011 without modification.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The trees which are the subject of this report make an important contribution to the landscape and amenity of the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services and Officers from Development Control will need to take account of the trees when considering any application for development or alterations on the site which might affect the trees.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are two mature Beech and one mature Sycamore which are within the front garden of Gaia, Widcombe Hill and are encircled within the broken black line and marked G1 on the attached plan.

4.3 A notification, reference 11/04933/TCA, was received for the felling of five trees and the reduction of a sixth which included the three trees which are the subjects of the TPO.

4.4 The trees which were included within the notification were assessed and three trees by the frontage were considered to be of sufficient visual landscape impact to be worthy of a Tree Preservation Order.

4.5 Letter of objection to the Tree Preservation Order

4.6 The Council are required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

4.7 One letter of objection has been received from the tree owners. The Committee are advised to read the letter of objection attached.

4.8 The main objections are identified and summarised below.

- i) The criteria for the making of the TPO are not met.

- ii) There are safety concerns about the current trees
- iii) The TPO prevents the residents from living in alignment with national policies and strategic objectives within the draft Core Strategy and Sustainable Community Strategy
- iv) Implicit consent to the tree works was given when planning consent was given for 11/02874/FUL

4.9 The objections to the Tree Preservation Order outlined in section 4.8 above have been considered by Officers and the following comments are made:

- i) The Councils' Arboricultural Officer has assessed the trees for amenity value as part of the TPO process and found that the trees were important within the locality making a valuable contribution to the conservation area. The trees are readily visible to the general public and are in reasonable condition with an acceptable safe useful life expectancy in excess of 20 years.
- ii) The objection letter and tree surgeons' report concentrates on the negative points relating to the trees and has not considered that trees rarely develop perfect forms and that management options such as surgery and bracing can address structural issues. The supporting information does not justify the need to fell the trees. An application to carry out management to the tree can be made under the TPO. No evidence has been provided to indicate that the trees are dead, dying or dangerous and therefore inappropriate candidates for a TPO.
- iii) The TPO is not considered to conflict with national policies or Bath and North East Somersets' specific policies or strategies. One does not override another and, as with all issues, there is a question of balance. The Council has not objected to previous tree felling proposals within the property which were included within notifications, references 10/04607/TCA; 11/03409/TCA (one Beech tree withdrawn from the proposal which is now included within the TPO) and 11/04933/TCA (included the felling of two other trees which are not within the TPO).
- iv) Implicit consent was not given for the tree works when planning consent was given for 11/02874/FUL. The application form does not refer to the solar array and, therefore, the Case Officer did not consider the solar array was part of the application and made their decision accordingly. In addition, the Design and Access Statement accompanying the application states that the existing trees will be retained and protected and no tree work was associated with the application. Should the owners intend to install the solar array under permitted development they should ensure that the siting minimises its effect on the amenity of the area, in this case the visual amenity afforded by the trees.

The three trees are not directly in front of the property but off centre towards the east. With the felling of other trees within the property it should be possible to position the solar array to reduce the impact of shading.

Letters of objection to the notification and in support of the TPO are attached.

4.10 Relevant History

- 4.11 - 10/04607/TCA - Remove deadwood and one single branch of Ash, remove a group of Holly trees and 1 x Lawson Cypress, crown lift by up to 4m from ground level of dominant Beech, and remove a line of five young Lawson Cypress trees. NO OBJECTION
- 4.12 11/02874/FUL - Erection of a single storey front extension and alterations to external openings to compliment the new internal layout. PERMITTED
- 4.13 11/03409/TCA - Remove 1no. branch from Ash. Felling of one Beech withdrawn from notice. NO OBJECTION
- 4.14 11/04933/TCA – Fell four Beech; fell one Sycamore and reduce height of one Beech. NO OBJECTION IN PART (TPO made on two Beech and one Sycamore).

5.0 LEGAL AND POLICY FRAMEWORK

Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in Part VIII of the Town and Country Planning Act 1990 and in the Town and Country Planning (Trees) Regulations 1999

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands considered to be under threat. This is in keeping with Government guidance, and takes account of the visual impact of the trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to make provision for the preservation of the trees. The TPO was made on 15 December 2011. This took effect immediately and continues in force for a period of six months.

Planning Policy

5.6 Bath and North East Somerset Local Plan including minerals & waste policies 2007

C2.22 'Trees are an important part of our natural life support system: they have a vital role to play in the sustainability of our urban and rural areas. They benefit:

- the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;
- the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- the social fabric in terms of recreation and education’

C2.23 ‘Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. The management and retention of significant trees is therefore pressing’

C2.25 ‘Bath & North East Somerset has a duty under the Town and Country Planning Act 1990 to ensure tree and woodland preservation wherever it is appropriate. The Council will continue to protect trees and woodlands through Tree Preservation Orders (TPOs) as appropriate. There is also a level of protection afforded to trees in Conservation Areas (CAs). However there are many trees of value outside these designations and careful consideration should be given to the removal of any tree’

6. CONCLUSION

6.1 The trees makes a significant contribution to the landscape and amenity of this part of the Bath.

6.2 Confirmation of the TPO would ensure the retention of the trees. Should it be found in the future that it would be unreasonable to retain the trees the Council will then be able to ensure that a replacement tree of a similar species is planted.

6.3 In keeping with the Council’s commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

Contact person	Jane Brewer 01225 477505
Background papers	The file containing the provisional Tree Preservation Order, relevant site notes, documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number.

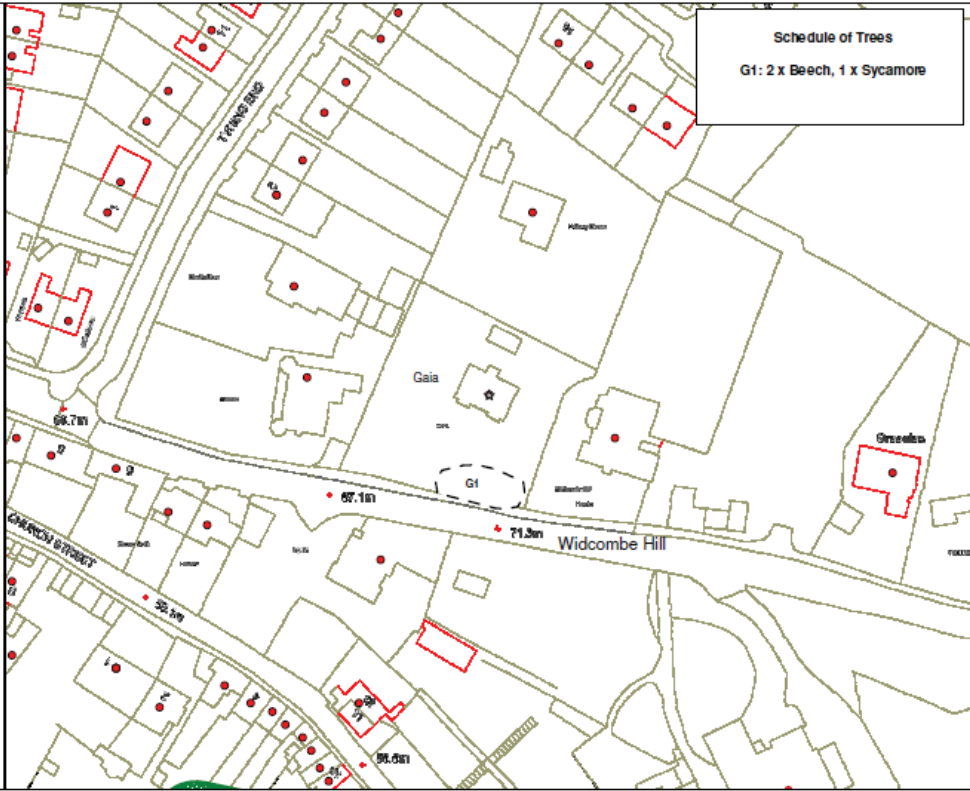
Scale 1:1000
Date: December 2011
Plan No: 500/268
Grid Ref: ST 759 641

Title:
TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Gaia, Widcombe Hill,
Bath No. 268)
TREE PRESERVATION
ORDER 2011

I hereby certify that this
plan referred to in the
BATH AND NORTH
EAST SOMERSET
COUNCIL
(Gaia, Widcombe Hill,
Bath No. 268)
TREE PRESERVATION
ORDER 2011



Divisional Director,
Planning & Transport Development



Schedule of Trees
G1: 2 x Beech, 1 x Sycamore

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FOR THE PROMPT ATTENTION OF MISS JANE BAEWEA, SENIOR ARBORICULTURALIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Wilscombe Hill for permission to remove mature woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

As Wilscombe is a Conservation Area putting particular emphasis on the preservation of trees we do not agree with the proposal to fell 3 trees on the property as detailed. GAIA, Wilscombe Hill Bath.

Unless it is essential - which in this case we do not think applies - we do not agree with felling any trees when the area has an ever increasing level of pollution as the volume of traffic rises. The environment and heritage must be protected.

M. W. W. - A. H. H.

2. Wilscombe Hill
Bath, BA2 6AD.



-----Original Message-----

From: Development Control
Sent: 30 November 2011 14:00
To: Ian Gilchrist (Cllr)
Subject: "Application Comments"

(Cllr) Ian Gilchrist, you have been sent this email because you or somebody else has submitted a comment on a Planning Application to Bath and North East Somerset Council using your email address.

A summary of your comments is provided below.

Comments were submitted at 30/11/2011 13:48:30

Application Summary

Application Number:
11/04933/TCA

Address:
Gaia, Widcombe Hill, Widcombe, Bath, BA2 6AE

Proposal:
Various Tree Works

Case Officer:
Jane Brewer

Customer Details

Name:
(Cllr) Ian Gilchrist

Address:
24 Horseshoe Walk
Bath

PostCode:
BA2 6DF

Comments

Submission Type:
S - Support

Comments:

I have been to see the site at the request of the applicants and would like to support their submission on the grounds that:

- 1) removal of the trees will enable more (solar PV) electricity to be generated from the roof installation;
 - 2) cultivation of vegetables in the garden is likely to be more successful if the trees are removed.
- Both of these points are in line with the Council's stated sustainability aims.

FOR THE PROMPT ATTENTION OF MISS JANE BAEWEA, SENIOR ARBORICULTURALIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Widcombe Hill for permission to remove mature woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

It is always regrettable when mature trees are felled, particularly in a conservation area. I do not support the removal of the trees in question. I do however, support the tree protection order on the mature trees at the front of Gaia. The removal of these would greatly disfigure this area of Widcombe Hill

G. N. Jones
Hillside
Widcombe Hill Bath

Halfway House,
Widcombe Hill,
BATH
BA1 3LQ

19th January 2012

Jane Brewer,
Senior Arboriculturalist,
BANES Planning Services
PO Box 5006
BA1 1JG

Dear Jane Brewer:

We are writing to express our full support for the Tree Preservation Order which has been issued and notified to us regarding Trees on the land at Gaia, Widcombe Hill (TPO Reference: 2011 Gaia, Widcombe Hill, Bath, No. 268). We would urge the authority to give permanence to the TPO.

The TPO covers a group of trees G1, consisting of 2 Beech and 1 Sycamore within the front garden of Gaia. These are labelled T1, T2 and T3.

These are mature trees and are a long standing feature of the local area. We have been residents at the neighbouring property of Halfway House for over 30 years and these trees have added to the local amenity throughout this time. The trees contribute to the woodland character of the area and the pleasant environment and visual character and attractiveness of this part of Widcombe.

They help to provide shelter and protection from traffic noise and pollution from Widcombe Hill for the surrounding properties in Widcombe Hill and Tynning End.

The trees are very prominent and visible from the surrounding area, with the slopes of Widcombe Hill contributing to the attractions of Bath as a world renowned city. This area lies close to the National Trust Bath Skyline Walk and these trees contribute to the quality of the surrounding vistas. Widcombe Hill is a popular area used for travel and walking by the city's residents, University Students, and visitors alike. Bath is a World Heritage Site and we note that *the green setting of the city within a hollow in the hills* is a key reason for achieving this status. The current management plan for the Bath World Heritage Site (2010-2016) includes *ensuring that landscape and natural elements of the site and its setting are protected, acknowledged, understood and managed*. Bath and North East Somerset have also published a setting study for the site. The protection of trees therefore supports and is necessitated by the World Heritage status. Failing to give permanence to this TPO will therefore be in direct conflict with published Local Authority requirements for the city.

Mature trees of this stature take many decades to grow and these trees are therefore an irreplaceable feature of the local environment. Their loss would have a permanent impact on the environmental and ecological characteristics of the area including loss of habitat and greenery, and an increase in the carbon dioxide footprint.

I note that the applicant for tree work to fell these trees has mentioned intended installation of Solar Panels as a reason for this action. I would therefore like to draw the authority and planning office's attention to the fact that the installation of these Solar Panels formed an explicit part of a planning application which has been granted for building work at Gaia. This application explicitly stated that no supporting tree work is required. (Clearly any such work should have been declared as part of the planning application in response to the explicit question on the application form.) Any argument regarding the need for tree work to support use of Solar Panels is therefore either spurious or fraudulent.

We have separately registered our objection to the Gaia application for tree work which has prompted this TPO. We would like to see the remaining trees (T4, T5 and T6) falling within the Gaia tree work application also protected e.g. via a Tree Preservation Order. This is because these trees also bear similar characteristics and the same reasons for their preservation apply. All trees are in good health and have never presented any problem. We have supporting advice from a qualified Tree specialist based on inspection from our land (The owner of Gaia has refused any request for access for closer inspection). We would therefore also propose the extension of the existing TPO to also include these additional trees.

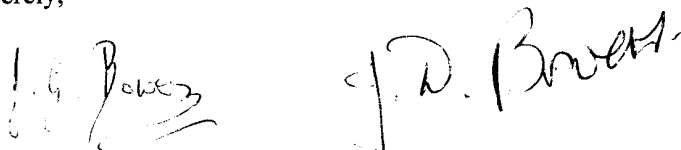
Finally we would like to emphasise again that any loss or cutting of the Trees subject to this Tree Protection Order would have a major impact:

- on individuals in the surrounding properties,
- on the local community,
- and on a world heritage city

We know that many local residents are also supportive of this TPO. We urge you to make the TPO referenced above permanent.

We look forward to a positive response.

Yours sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'J.G. Bowers' and the signature on the right is 'J.D. Bowers'. Both are written in a cursive, flowing style.

Mr J. D. Bowers and Mrs J. G. Bowers

FOR THE PROMPT ATTENTION OF MISS JANE BAEWEA, SENIOR ARBORICULTURALIST

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We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

We would not be happy if the trees in question are felled, it seems a shame to fell two healthy mature trees for the reasons given

Mr. and Mrs L. Price
"Greenways"

Widcombe Hill
Bath.



Rear Admiral Austin Lockyer



The Old Malt House
3 Widcombe Hill
Bath BA2 6AD
01225 466815

Friday, 13 January '12

ON LINE REFERENCE 11/04933/ICA

for the attention of Mrs Jane Brewer

My wife and I fully support
the objections raised by Mr and Mrs
Brewer of Halfway House, Widcombe
Hill for permission to remove mature
trees at the bottom of the drive
bordering Gavia your letter of
16 December 2011 (Gavia, Widcombe
Hill, Bath No. 268) refers.

Austin Lockyer

FOR THE PROMPT ATTENTION OF MISS JANE BAEWEA, SENIOR ARBORICULTURALIST

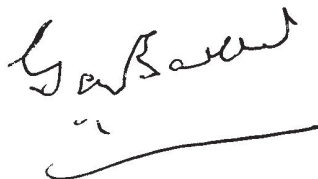
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We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

MR. GEORGE
a
MRS. CAROL BARBER
GREENLEA,
WIDCOMBE HILL,
BATH BA2



Environment Team
Planning Services
PO Box 5006
Bath BA1 1JG

Gaia
Widcombe Hill
Bath
BA2 6AE
26th January 2012

Dear Ms Brewer,

Formal Objection to Temporary Tree Preservation Order 2011

We write to object to the temporary tree preservation order placed on three trees (T1, T2 and T3) at our home. The reasons for the objection are listed in detail in this letter. They are, in summary:

1. The criteria for making a Tree Preservation Order, as stated in Part VIII of the Town and Country Planning Act 1990, are not met.
2. There are safety concerns about the current trees.
3. The temporary TPOs prevent us as citizens from living in alignment with the Number 1 strategic objective in BANES Core Strategy, its Local Strategic Partnership Sustainable Community Strategy and numerous national policies including the Climate Change Act 2008. The Council is preventing the implementation of its own strategies.
4. The proposed scheme is entirely in line with these strategies in that it maintains the "linkages of green infrastructure" of the area, provides for a net increase in trees, increases amenity, has a positive impact on air borne pollutants, removes the current safety risks and generates a hugely positive environmental gain.
5. Implicit Consent to the tree works was given when the original planning application for the solar array was given.

We understand the importance of visual amenity and have addressed this in our application by committing to replace the three trees with beautiful, blossom producing fruit trees.

We believe passionately that the proposal we submitted enables the creation of a sustainable home which uses solar power and grows its own organic food. Placing TPOs on the trees in question kills this opportunity to create a low impact way of living stone dead.

We are the parents of two young children. Their adult world will be far more affected by climate change than we can even imagine. That is why we must act now to create environmentally sustainable homes and power sources. In our proposal, future generations will be able to enjoy the visual amenity of the fruit trees AND enjoy the organic food they produce AND have carbon-saving power; if the TPOs are retained, they will have a far thinner experience.

We remain committed to engaging with the council to find a positive way forward. We will also take our case to the highest levels possible should this be necessary.

Yours sincerely

Mark and Adrienne Baptist

Objections

Objection 1: The criteria for making a Tree Preservation Order, as stated in Part VIII of the Town and Country Planning Act 1990, are not met.

The following table itemizes the criteria used to validate a TPO, notes government guidance in “Tree Preservation Orders: A Guide to the Law and Good Practice” at <http://www.communities.gov.uk> , articulates why the criteria is not valid in this case and directs the reader to further information provided in the appendix

Tree Preservation Order Criterion	Government Guidance (“Tree Preservation Orders: A Guide to the Law and Good Practice”)	The Trees For Which a Temporary TPO Has Been Made.
Overall Amenity	<p>“TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.”</p> <p>“It would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.”</p>	<p>The overall amenity of the area will be improved by the proposal to remove the trees in that:</p> <ol style="list-style-type: none"> 1. planting fruit blossom trees to replace the current trees will provide a beautiful display or flowers and then fruit. Blossom trees are not common in the area and so would add variety as well as aesthetic appeal and biodiversity. 2. the enablement of solar power and heat <ol style="list-style-type: none"> a. provides public amenity in that it addresses community concerns regarding climate change. b. Is at least 1200% better for the environment each year than the retention of the current trees. <p>The tree surgeon who assessed the trees states: “the existing trees provide poor amenity value which will deteriorate over time given their poor form, structure, strength and risk of infection.”</p> <p>These trees have manifest faults which present a safety risk to pedestrians and motorists in the area.</p>
Visibility	<p>If the trees “cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances”.</p>	<p>The trees are not visible at all from the centre of Bath. We include photographs demonstrating that they are either not visible at all or barely visible along most of Widcombe Hill and the areas that face it.</p>
Individual impact	<p>“The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree’s particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation</p>	<ol style="list-style-type: none"> 1. The trees have poor form. An extract from the tree surgeon’s report states “none of the trees can be said to have good form .. as a group they are all compromised structurally.” 2. The trees do not have future potential as an amenity: <ol style="list-style-type: none"> a. “The structural faults are in major limbs and as such the future amenity they offer is compromised” (Tree Surgeon) b. The proximity of the trees to a large retaining wall (one is only 22cm away) combined with the trunk expansion rate

	area.”	<p>will cause the retaining wall to fail over time. This wall runs alongside Widcombe Hill, which is a major pedestrian route to/from town, the University and local schools. This wall is already showing signs of being put under pressure by the root system of the tree in that it is exhibiting a visible bow which can only worsen over time.</p> <p>3. The trees are not rare – beech and sycamore proliferate in the area.</p>
Wider impact	The significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.	<p>1. The proposal refers to 3 trees; there are 70 trees within 20 metres of our property and hundreds of others within 100 metres. These trees include Beech and Sycamore, as well as Ash, Yew, and Chestnut.</p> <p>2. The specific trees in question are not locally scarce with others examples nearby.</p> <p>3. They are also not suited to a urban garden and being close to the road - their leaves, know to be slow to rot, creates a slippery surface for pedestrians and motorists autumn</p>

Objection 2: There are safety concerns about the current trees.

There are significant structural and positional weaknesses in the trees that creates the risk of injury and damage to property and persons

T1 double trunked with included bark (a sign of increased weakness) and will become an increasing safety hazard with time

T1 is within 22cm of a 1.6 metre high retaining wall and leans across Widcombe Hill, a thoroughfare used as a key pedestrian route to Bath University, a bus route from the city to Ralph Allen Secondary School and a main artery into the city.





The mortar in the wall is showing evidence of cracking and the wall is exhibiting a visible bow which can only worsen over time.



T2 shows evidence of a weak fork which threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech known to have poor tensile strength.



T3 is only 1m from the retaining wall and has rubbing trunks which will be a potential future source of infection and the risk of compression building in the tight union is high.



All of the trees, which are already exhibiting signs of strain, will become larger over time increasing the likelihood of damage to persons or property, and certainly within the next 10 years.



We also include a photograph of a recently felled beech that is of similar age and also of structurally poor form which shows clear evidence of “included bark” and the resultant loss in strength.



Objections 3 & 4:

- ***The temporary TPOs prevent us as citizens from living in alignment with the Number 1 strategic objective in BANES Core Strategy, its Local Strategic Partnership Sustainable Community Strategy and numerous national policies including the Climate Change Act 2008. The Council is preventing the implementation of its own strategies.***
- ***The proposed scheme is entirely in line with these strategies in that it maintains the “linkages of green infrastructure” of the area, provides for a net increase in trees, increases amenity, has a positive impact on air borne pollutants, removes the current safety risks and generates a hugely positive environmental gain.***

The No 1 Objective in the B&NES Core Strategy is “to pursue a low carbon and sustainable future in a changing climate”

Climate Change is a Key Strategic Issue that is being addressed by the B&NES Core Strategy and is articulated in the Core Strategy document as follows:

*“There is a need to tackle the causes and effects of climate change through **lower carbon lifestyles; limiting our use of increasingly scarce resources; reducing our dependency on fossil fuels** especially in light of ‘peak oil’ concerns; making sure that our area is resilient to climate change, particularly the potential for flooding. We will need to adopt environmentally friendly practices such as **making buildings more energy efficient, increase the use of renewable energy, reduce car use and grow more local food.** We will also need to ensure that the natural environment is maintained and enhanced to maximise opportunities for mitigation. **This will enable us to contribute to meeting the national, statutory carbon reduction target of 45% by 2020 from 1990 levels.**”*

1. Placing a temporary TPOs on the three trees prevent addressing a significant community concern of climate change

Our current home already has a condensing boiler, is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place. We intend to install solar thermal and PV installations to reduce our carbon footprint further.

Placing a temporary TPO on the trees maintains the shading that prevents the alternative energy systems from working efficiently. Replacing the trees will increase the CO₂ saved by a factor of 1200% compared to the CO₂ sequestered by the existing trees. (This has been calculated with help from a local solar expert, the Centre for Alternative Technology and the Woodland trust)

Shading has a disproportionate impact on the efficiency of solar arrays and the whole system will only operate at the efficiency of the lowest performing panel. Therefore reducing shading to a minimum is critical to the success of solar systems

We note that the Council is supportive of low-carbon initiatives including two that have come out of Transition Bath Energy Group of which I am a member and contributor – namely the Bath Homes Fit for the Future (part-funded by B&NES) where Bath homeowners can showcase their energy efficient homes and the Energy Efficient Widcombe (also supported by B&NES) whose purpose is to support the local community in making their homes more efficient.

See Appendix for further details

2. Temporary TPOs on the trees reduce biodiversity and reduce our ability to lower our carbon footprint through more local food production

Our aim is to create an allotment style garden that will enable us to:

- a) Grow a large proportion of our own food so reducing “food miles”, the number of journeys we take in a car to buy food and the wasted packaging in which shop-bought food is shipped. It will also enable us to produce organically grown food and so both increase the nutritional value of each item grown and reduce the family’s exposure to pesticides;
- b) Increase the biodiversity of the site by planting a variety of the flowering plants, fruit trees and vegetable species that will encourage bees, insects and other wildlife;
- c) Increase soil quality by introducing crop rotation with plants such as beans that will “nitrogenise” the soil.

However, the existing trees create a large “dead zone” all around them due to the shade cast by their canopies and the moisture/goodness they suck out of the ground. The soil around them is of poor quality and we have made numerous attempts to grow plants under the canopy but are continually having to replace them. Those that manage to survive grow into poor form specimens.

Having taken advice from a horticulturalist, we have been told that it would be impossible to achieve the allotment style garden we had planned should the particular trees in question remain in situ. Moreover, the current trees would support only a fraction of the biodiversity that would be achieved by an allotment style

We propose working with the council to develop a horticultural plan and tree replanting scheme that will increase the local biodiversity and so increase the wider environmental benefit immediately and for the long term future.

- 3. Placing temporary TPOs on the three trees is also in conflict with achieving the Local Strategic Partnership Sustainability Community Strategy**

See Appendix

- 4. Placing temporary TPOs on the three trees reduces our contribution to meeting the UK legally binding targets through Climate Change Act 2008**

The UK set legally binding framework to tackle the dangers of climate change by setting legally binding targets. Placing temporary TPOs reduces the contribution we collectively can make, to achieving these targets.

Objection 5: Implicit Consent to the tree works was given when the original planning application for the solar array was given.

Our original detailed planning application (Reference: 11/02874/FUL) included PV and Solar Thermal installations on the roof. Given the orientation and the obvious shading of the solar array by the trees, there was implicit consent to fell or do works to the trees in the original planning application.

Appendices

Contents:

1. Detail Underpinning Objections
2. Tree Surgeon Report
3. Original Supporting Letter submitted as part of the original Application for Tree Works

Detail Underpinning Objections

Objection 1

Amenity Value

Safety Risk – please see Objection 2 in main body

Visibility

- The trees in question are difficult to see from any angle and we include photographs taken from all the approaches to the trees in question to support this.
- They are obscured by other trees from almost all points when descending Widcombe Hill and due to the narrowing of that particular section of Widcombe Hill to single lane, provide no visual amenity to drivers who need to focus on safety.





- Coming up Widcombe Hill, they are also obscured by other trees and so once again provide little in the form of amenity



- From Perrymead / Lyncombe Hill, they are subsumed in the other trees surrounding our property



- Walking past the trees on the pavement, the only way to enjoy their amenity is look directly up as they are above and behind a high retaining wall almost 2 metres tall
- The trees are not visible from the city centre due to the contours of the land.

Individual Impact

Extracts from the tree surgeon's report:

"None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised"

"T1. This tree is large and leans over the road. Its branches stretch across the road and will require pruning not to become a nuisance to the drivers of high vehicles. It is a Sycamore, when dropped so its leaves are large, slow to rot and slippery. The tree's form is double trunked with the union of the trunks being just above ground level. The union of this fork is not ideal. It is tight and has included bark. The fork is less likely than most unions to stand up well to the tree's future growth as each year's annual growth causes pressure to build up between the tight trunks and the included bark is a potential place for infection to the tree. If this basal union becomes weak, the large trunk which leans over the road may become a danger to traffic. This indicates that the tree has less to offer in future amenity than many trees of similar size."

"T2 has a very tight fork at 6 metres where the tree splits into 2 trunks. There are large bulges in the wood to be seen below the fork. These bulges are clear signs of the tree struggling to cope with a weak fork. One of the trunks of this fork threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech. Beech wood is known to have poor tensile strength. This tree would require its trunks to be considerably shortened to make them safer. This decreases the future amenity the tree has to offer and it is debatable how worthwhile it is to retain a tree with a major structural fault, especially in view of occupier's liability legislation."

"T3. This tree has poor form. It divides into 3 stems at 4.5 metres height. Two of its trunks rub together above a tight union. This fault could have been corrected early in the tree's life by good pruning but now the size of the wounds made would put the tree at considerable risk of infection from decay at a point in its structure that is critical for strength. The rubbing trunks will be a potential future source of infection and the risk of compression building in the tight union is high. Beech is not a very decay resistant wood since Beech forms no heart wood."

Objection 3 and 4

My wife and I are passionately committed to living in an environmentally sustainable way. To this end we have devoted professional and personal time to furthering this cause: I am a member of Transition Bath and my wife is a former CSR Director for Allied Domecq. I work from home when possible and my wife travels to work by bike. We are also fully supportive of and taking action to help achieve, the Local Strategic Partnership's Sustainable Community Strategy and the draft Core Strategy (currently in consultation).

Our current home has a condensing boiler, is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place.

To further improve its environmental credentials, we received planning permission (Reference: 11/02874/FUL) to make changes to our property which will reduce our carbon footprint and make us more sustainable.

These changes include the installation of 4kW PV solar system, a solar thermal system, additional insulation, more efficient appliances and upgraded glazing for solar gain/reducing heat loss. All of these changes will help us to reduce our reliance on fossil fuels.

According to the figures provided by locally based PV installer Ace Energy, the proposed system could save 1855 kg of CO₂/year with no shading. The shading of the existing trees reduces the CO₂ saved by 309kg/year.

According to the Woodland Trust and the Centre for Alternative Technology – and taking a generous view on the level of carbon sequestering by trees – each tree is only contributing to a reduction of 4 kg CO₂ / year.

So the three trees in question are, at best, only saving 12 kg CO₂ / year

Given that the 3 trees are south-facing and produce direct shade it is reasonable to conclude they contribute 80% of impact of shading. Therefore the net CO₂ benefit in the solar thermal and PV arrays by 1200% more than the carbon sequestered by the existing trees.

This figure becomes greater when we take into account our desire to replace the trees with others which will also be sequestering CO₂

Shading has a disproportionate impact on the efficiency of solar arrays and the whole system will only operate at the efficiency of the lowest performing panel

Please note some Relevant extracts from the Local Strategic Partnership Sustainable Community Strategy.

- a. Climate change poses significant and urgent challenges for the area. Changing weather patterns and rising energy prices mean that we are all being forced to consider different choices about how we live our lives.
- b. Working towards a low carbon economy and making sure that our area is resilient to climate change means changing how we think and act now.
- c. The Partnership is committed to tackling the causes of climate change and to help manage the effects. The national, statutory carbon reduction target has recently been increased to 34% by 2020 and 80% by 2050 and so there is an increasing sense of urgency to reduce our carbon emissions.
- d. There is a growing consensus about that fact that we have either already reached or are very close to what is known as 'peak oil', which means that oil supply will dwindle and become increasingly expensive. ...Reducing our dependency on all fossil fuels, through plans to cut carbon emissions will help with this problem and our resilience planning needs to include the impact of peak oil on the supply of goods and services. This Strategy recognises that addressing the causes and effects of climate change cuts across all the themes and priorities.
- e. We are also anticipating that social trends and lifestyle changes will also affect the way we live ...Other environmentally friendly practices such as making homes more energy efficient, the uses of renewable energy, less inefficient car use and growing more local food will become the norm rather than the exception.
- f. (Under Objectives, p20) CO₂ will be reduced and a robust approach to renewable energy will be encouraged.
- g. Plans across B&NES will achieve carbon reduction and make sure that B&NES is equipped to deal with the unavoidable changes that climate change and peak oil will make to day to day lives.
- h. Locality: A low carbon lifestyle is within everyone's reach and will help ensure local prosperity and wellbeing.
- i. We will seek to achieve energy and resource efficiency in all of our buildings, including providing more local services and encouraging initiatives such as home working to reduce the number of miles travelled.
- j. There will be a move towards a low carbon economy through an increased focus on local needs and services and work with communities will take place to prepare for the impact of climate change on local community life.

Tree Surgeon Report

Marshall Tree Services

5 The Close

Gastard

Wiltshire

SN13 9PX

01249 701836

www.trees.uk.com

Bath and North East Somerset Council
The Guildhall
High Street
Bath BA1 5AW

3rd November 2011

Dear Sirs,

This letter is in support of a notification to remove five trees and reduce a sixth one made by Mr Baptist of Gaia, Widcombe Hill, Bath.

Mr Baptist's notification is made because of reasons that are broader than simply arboricultural or visual amenity reasons. However, he appreciates any decision you may reach to make a Tree preservation order or not to make one will be based on current tree protection legislation, which places considerable emphasis on visual amenity and on the present and future condition and safety of trees. For this reason, I am writing this letter to argue that for you to make no objection to Mr Baptist's notification would be a reasonable step under current legislation.

I am a tree surgeon and arboricultural consultant with 8 years of qualified experience in tree surgery and four years experience in arboricultural consultancy. In 2006 I attained the highest marks in the country in the Arboricultural Associations annual examinations for their Tech. Cert. Arbor. A. Qualification.

Section 198(1) of part VIII of the town and country planning act 1990 states that: Local Planning Authorities may make a Tree Preservation Order (TPO) if it appears to them to be "Expedient in the interests of amenity to do so." "Amenity" is not defined, nor are the circumstances in which it may be expedient to make a TPO. This gives Local Planning Authorities considerable discretion and gives room for consideration of the amenity offered by well functioning renewable energy sources.

The Act gives 3 key criteria for assessing amenity value:

- 1 Visibility
- 2 Individual impact
- 3 Wider impact

Under point 1(visibility); these trees are not as visible as many trees. They are behind a high wall on a road which has high walls on either side. One has to be looking up –a direction in which drivers and pedestrians rarely look- in order to see much of any of the trees since they are behind a raised retaining wall. Little of the trees can be seen by

a pedestrian and a driver might be have more pressing priorities than looking at trees at this point in the road where the road is not too wide and there are often parked cars ahead.

Point 2 (Individual impact); some trees are more visible than others. A thorough assessment of each tree's visibility on its own merits may be required to fully grasp the situation, however in brief: Tree 5 has very limited visibility form the road and Tree 2 is almost completely hidden by Tree 1 and Tree 3. No tree has particularly good visibility because of the fact that they are behind a high retaining wall.

“Tree preservation orders: a guide to the law and good practice” -The Stationary Office, 2000, chapter 3.3, page 11, states that “The LPA should also assess the tree's particular importance with reference to its size and form, its future potential as an amenity...” Here there are quite a lot of factors that point towards the trees not offering as good amenity as many other trees.

None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised.

Tree 1. This tree is large and leans over the road. Its branches stretch across the road and will require pruning not to become a nuisance to the drivers of high vehicles. It is a Sycamore, when dropped so its leaves are large, slow to rot and slippery. The tree's form is double trunked with the union of the trunks being just above ground level. The union of this fork is not ideal. It is tight and has included bark. The fork is less likely than most unions to stand up well to the tree's future growth as each year's annual growth causes pressure to build up between the tight trunks and the included bark is a potential place for infection to the tree. If this basal union becomes weak, the large trunk which leans over the road may become a danger to traffic. This indicates that the tree has less to offer in future amenity than many trees of similar size.

Tree 2. This tree has a very tight fork at 6 metres where the tree splits into 2 trunks. There are large bulges in the wood to be seen below the fork. These bulges are clear signs of the tree struggling to cope with a weak fork. One of the trunks of this fork threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech. Beech wood is known to have poor tensile strength. This tree would require its trunks to be considerably shortened to make them safer. This decreases the future amenity the tree has to offer and it is debatable how worthwhile it is to retain a tree with a major structural fault, especially in view of occupier's liability legislation.

Tree3. This tree has poor form. It divides into 3 stems at 4.5 metres height. Two of its trunks rub together above a tight union. This fault could have been corrected early in the tree's life by good pruning but now the size of the wounds made would put the tree at considerable risk of infection from decay at a point in its structure that is critical for strength. The rubbing trunks will be a potential future source of infection and the risk of compression building in the tight union is high.

Tree 4. This tree will always be a problem to the visibility of the nearby street light. Like the other Beeches in this application, it lacks a clear leader and has tight unions. It also has an unusual naturally grafted branch, entirely included into its trunk at 3 metres. This branch

shows signs of considerable decay. Decay at this point in the centre of the tree's trunk will not be good in the long term, especially in a tree that is so close to motorists and the general public.

Tree 5. Once again this Beech tree has tight unions, one of which shows signs of stress (at 3.5 metres). It also has a basal fork between two trunks and another trunk has been removed at ground level, leaving a large wound which shows early signs of decay. Beech is not a very decay resistant wood since Beech forms no heart wood. Decay may well spread to the whole base of the tree in future.

Point 3 (Wider Impact). These trees are not locally scarce. There are other trees of their species within a stone's throw. They are also not ideally suited to their setting, being large trees so close to a main road and shading out a suburban garden. Their leaves are known to be slow to rot and will lie on the highway every autumn.

Tree 6 -the smaller Beech tree- has had its form very much influenced by the presence of its larger neighbours. It has grown rather spindly. If its neighbours are removed, the tree will look unusual and will also be higher than desired for the solar panels. It is prudent to reduce this tree to the height of the nearby Yew and to maintain it at this height.

Overall this is admittedly a one sided case I am making. However, whatever may be said in favour of the trees' contribution to amenity, it is clear that they are suboptimal specimens. They are far from being rare species. They have structural faults that will reduce their future contribution to amenity. They are not of ideal size and form for their setting and their loss would be less significant than the loss of many other trees. Mr Baptist hopes that the council will take into account the sub optimal nature of the trees and their sub optimal contribution to amenity in making an assessment of the expedience of the trees' being protected or not.

Thank you for considering these points.

Yours faithfully,

Paul Marshall BA Hons, Tech. Cert. Arbor A.

Supporting Letter as part of our original Application for Tree Works

Gaia
Widcombe Hill
Bath
BA2 6AE
17th November 2011

Dear Sir/Madam

My wife and I are passionately committed to living in an environmentally sustainable way. To this end we have devoted professional and personal time to furthering this cause: I am a member of Transition Bath and my wife is a former CSR Director for Allied Domecq. I work from home when possible and my wife travels to work by bike. We are also fully supportive of and taking action to help achieve, the Local Strategic Partnership's Sustainable Community Strategy and the draft Core Strategy (currently in consultation). We would like to highlight the extracts from this strategy that pertain most directly to the content of this letter; these are listed in Appendix A.

We moved house in December 2009 with the objective of living in a more environmentally sound house than the Georgian town house we formerly owned. Our current home is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place.

To further improve its environmental credentials, we have recently applied for, and received, planning permission (Reference: 11/02874/FUL) to make changes to our property which will reduce our carbon footprint and make us more sustainable.

These changes include the installation of 4kW PV solar system , a Solar Thermal system, additional insulation, more efficient appliances, upgraded glazing for solar gain/reducing heat loss and the installation of a wood burning stove. All of these changes will help us to reduce our reliance on fossil fuels.

When we applied for planning permission, we omitted a request to remove some trees of mixed quality. We decided to make this request now as a result of extensive research into the net environmental benefits of specific trees compared to solar power, the differential effects on biodiversity of a variety of species and the impact on our ability to grow our own food.

The conclusion of this research was that it was hugely beneficial, from a sustainability perspective, to remove some trees to enable the PV Solar and Solar Thermal to work effectively and to increase the home grown food production and biodiversity at the site. Our rationale is as follows:

There are over 70 trees within 20m of our property. Aside from making some contribution to the amenity of the area, we are delighted to have their oxygen generating and CO2 reducing capabilities.

However, 6 of these trees are problematic in that they prevent the proposed environmental measures in the approved planning application being implemented effectively.

Issue 1: hugely reduced efficiency of the PV Solar and Solar Thermal

According to the figures provided by locally based PV installer Ace Energy, the proposed system could save 1855 kg of CO₂/year with no shading.

The shading of the existing trees reduces the CO₂ saved by 309kg/year.

According to the Woodland Trust and the Centre for Alternative Technology – and taking a generous view on the level of carbon sequestering by trees – each tree is only contributing to a reduction of 4 kg CO₂ / year.

So the existing trees (e.g. 5) are, at best, only saving 20 kg CO₂ / year

In conclusion, the *annual benefit* to the environment is 1500% greater by removing the specific trees.

Issue 2: prevention of food production and reduction of biodiversity

Our aim is to create an allotment style garden that will enable us to:

1. grow a large proportion of our own food so reducing “food miles”, the number of journeys we take in a car to buy food and the wasted packaging in which shop-bought food is shipped. It will also enable us to produce organically grown food and so both increase the nutritional value of each item grown and reduce the family’s exposure to pesticides;
2. increase the biodiversity of the site by planting a variety of the flowering plants, fruit trees and vegetable species that will encourage bees, insects and other wildlife;
3. increase soil quality by introducing crop rotation with plants such as beans that will “nitrogenise” the soil.

However, the existing trees create a large “dead zone” all around them due to the shade cast by their canopies and the moisture/goodness they suck out of the ground. The soil around them is of poor quality and we have made numerous attempts to grow plants under the canopy but are continually having to replace them. Those that manage to survive grow into poor form specimens.

Having taken advice from a horticulturalist, we have been told that it would be impossible to achieve the allotment style garden we had planned should the particular trees in question

remain in situ. Moreover, the current trees would support only a fraction of the biodiversity that would be achieved by an allotment style garden.

Please note that we intend to replace any removed trees with fruit trees to allow CO2 sequestering to compensate for any loss from the existing tree removal.

Installing PV and Solar Thermal systems are clearly contributing to both the BaNES's No.1 strategic objective in the Draft Core Strategy to "Pursue a low carbon and sustainable future in a changing climate" as well as The Local Strategic Partnership Sustainable Community Strategy. Aside from the elements listed in Appendix A, we would like highlight the following extracts:

1. P106 "Retrofitting measures to existing buildings to improve their energy efficiency and adaptability to climate change and the appropriate incorporation of micro-renewables will be encouraged".
2. P107 "All planning applications should include evidence that the standards below will be addressed: • Maximising energy efficiency and integrating the use of renewable and low-carbon energy.
3. The emissions from Bath and North East Somerset for 2006 were 1,072,000 tonnes. Of these, 437,000 tonnes was from energy use in homes. By 2020, these emissions need to be reduced by 34% and by 80% by 2050 to meet the statutory national targets¹¹. It is clear from this that significant change in how we live; work and travel will need to take place during the timeframe of this strategy (Sustainable Community Strategy 2009 - 2026).
4. The Sustainable Community Strategy: We provide the leadership to help our communities to help people reduce carbon emissions across the area by 45% by 2026.
5. We develop a Sustainable Energy Strategy for the area to enable the development of clean, local, sustainable energy sources and systems.
6. The new leadership forum will need to identify and resolve perceived and actual conflicts between competing objectives, for example: building preservation vs. energy efficiency; new build costs vs. higher environmental standards; local green energy generation vs. planning objections; thinking local with local markets and shops and less travel vs existing patterns of behaviour.

We are therefore writing to request permission for the removal of four beech trees and one sycamore and the reduction of a fifth beech. (See "Gaia Tree Location" for plan sketch)

To meet with the council's recommendations in the handling of any tree related activity we have sought the professional advice of a tree surgeon in relation to the quality, safety and amenity of the specific trees.

A copy of his advice and recommendation can be found as part of this application and should be read alongside it as professional input to the application. This can be found as a separate document in the on-line application called "tree surgeon report" – pdf

These trees are in a residential garden and therefore not in a suitable setting – i.e. woodland. Given the numbers of trees in the immediate vicinity, there is little overall amenity impact in their removal, and as such would not have a significant adverse effect upon the local environment. Additionally, their removal would help create an uneven age structure for the future.

According to the tree surgeon every one of the trees has a combination of poor structural form, evidence of decay, major faults or poses a risk to traffic.

According to the tree surgeon: *"None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised.*

...they are suboptimal specimens. They are far from being rare species. They have structural faults that will reduce their future contribution to amenity. They are not of ideal size and form for their setting and their loss would be less significant than the loss of many other trees"

As explained above, our request has a directly calculable net environmental benefit of 1500% per annum and has a multitude of additional benefits with respect to increasing biodiversity and sustainable living.

These benefits are directly aligned to and support the achievement of the Bath Core Strategy and The Local Strategic Partnership Sustainable Community Strategy and the plans and targets within them.

In order to approach this matter in a responsible way, we have discussed it with our local Councillor, Ian Gilchrist, who is very supportive of low-carbon and sustainable initiatives in Bath.

We look forward to your response

Best regards

Mark Baptist

Appendix A: Extracts From Bath Sustainable Community Strategy 2009 – 2025

1. Climate change poses significant and urgent challenges for the area. Changing weather patterns and rising energy prices mean that we are all being forced to consider different choices about how we live our lives.
2. Working towards a low carbon economy and making sure that our area is resilient to climate change means changing how we think and act now.
3. The Partnership is committed to tackling the causes of climate change and to help manage the effects. The national, statutory carbon reduction target has recently been increased to 34% by 2020 and 80% by 2050 and so there is an increasing sense of urgency to reduce our carbon emissions.
4. There is a growing consensus about that fact that we have either already reached or are very close to what is known as 'peak oil', which means that oil supply will dwindle and become increasingly expensive. ...Reducing our dependency on all fossil fuels, through plans to cut carbon emissions will help with this problem and our resilience planning needs to include the impact of peak oil on the supply of goods and services. This Strategy recognises that addressing the causes and effects of climate change cuts across all the themes and priorities.
5. We are also anticipating that social trends and lifestyle changes will also affect the way we live ...Other environmentally friendly practices such as making homes more energy efficient, the uses of renewable energy, less inefficient car use and growing more local food will become the norm rather than the exception.
6. (Under Objectives, p20) CO2 will be reduced and a robust approach to renewable energy will be encouraged.
7. Plans across B&NES will achieve carbon reduction and make sure that B&NES is equipped to deal with the unavoidable changes that climate change and peak oil will make to day to day lives.
8. Locality: A low carbon lifestyle is within everyone's reach and will help ensure local prosperity and wellbeing.
9. We will seek to achieve energy and resource efficiency in all of our buildings, including providing more local services and encouraging initiatives such as home working to reduce the number of miles travelled.
10. There will be a move towards a low carbon economy through an increased focus on local needs and services and work with communities will take place to prepare for the impact of climate change on local community life.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	9 May 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (108 Bloomfield Road, Bath No. 269) Tree Preservation Order 2012
WARD:	Lyncombe
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
Plan of Site	
Copy of letter of objection to the Tree Preservation Order	

1 THE ISSUE

1.1 An objection has been received from the owners following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (108 Bloomfield Road, Bath No. 269) Tree Preservation Order 2012 (“the TPO”), which was provisionally made on the 5 January 2012 to protect a Pine which makes a significant contribution to the landscape and amenity of the area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (108 Bloomfield Road, Bath No. 269) Tree Preservation Order 2012 without modification.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The tree which is the subject of this report makes an important contribution to the landscape and amenity of the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services and Officers from Development Control will need to take account of the tree when considering any application for development or alterations on the site which might affect the tree.

4 THE REPORT

4.1 Background

4.2 The tree which is the subject of the TPO is one mature Pine which is within the front garden of 108 Bloomfield Road and is encircled and marked T1 on the attached plan.

4.3 A notification, reference 11/05203/TCA, was received for the felling of the tree.

4.4 The tree was assessed and considered to be of sufficient visual landscape impact to be worthy of a Tree Preservation Order.

4.5 Letter of objection to the Tree Preservation Order

4.6 The Council are required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

4.7 One letter of objection has been received from the tree owners. The Committee are advised to read the letter of objection attached.

4.8 The main objections are identified and summarised below.

- i) An arboriculturalist has judged the tree dangerous and that it poses an unacceptable risk.
- ii) The tree is in decline and slowly dying.

- iii) The opinions of the Arboriculturalist and Councils' Arboricultural Officer are conflicting and does not provide comfort which is not considered fair or right.
- iv) The lean of the tree, asymmetrical canopy and stumps left from previous pruning reduce the attractiveness of the tree.
- v) The tree is a Pine and not in keeping with the style of property or local environment.
- vi) The tree is close to the house and is only visible from the immediate vicinity.

4.9 The objections to the Tree Preservation Order outlined in section 4.8 above have been considered by Officers and the following comments are made:

- i) The combined independent reports provided states that the risk of stem or branch failure was considered to be within acceptable levels but the risk of the whole tree falling (this has not been qualified by the expert but based on the contents of the report would appear to relate to uprooting) was considered to be the greater risk and within unacceptable levels. The Councils' Arboricultural Officer considers that insufficient evidence has been provided to support the risk that the whole tree could fall because no trial pits were dug or roots inspected to determine whether any level changes had resulted in significant harm to the tree or whether the lapse of time following any level changes had resulted in compensatory growth. The date of any level changes is not known but based on the condition of the steps and adjacent wall it is possible that this was undertaken in excess of 10 years ago. Since the main issue raised by the combined reports relates to tree stability, a climbing inspection has not added anything further to support this.
- ii) Based on the annual extension growth and density of foliage the tree is considered to be mature rather than over-mature and life expectancy is estimated to be in excess of 20 years.
- iii) It is not the Councils' Arboricultural Officers responsibility to provide evidence or undertake an assessment of the tree but to consider what is presented to support the proposal. In this case insufficient evidence has been provided to support the risk that the whole tree could fall. The Council has not objected to previous tree pruning, references 08/04103/TCA and 11/03481/TCA, however, recent observations indicate that not all the work included within the notices has been undertaken.
- iv) The appearance of the tree and how individuals gauge attractiveness is subjective. The lean of the tree appears historical rather than recent, the unbalanced appearance of the canopy can be reduced by pruning and stubs removed.
- v) The property is within an urban setting and many unusual trees are present within Bath which would not necessarily have been available or planted at the time when properties were built. This is not considered sufficient reason to condemn a tree.
- vi) The tree is close to the house but separated by steps. No evidence has been provided to indicate that the tree is damaging the house. The tree is visible from the northern junction of Bloomfield Road, from the junction with St Lukes Road and from a distance due to the topography of Bath and height of the tree.

4.10 Relevant History

4.11 – 08/04103/TCA – Reduce long lateral branches by 2-3 meters. NO OBJECTION

4.12 11/03481/TCA - reduce the longest branches on the north and west sides in length by 2-3m, final numbers and dimensions to be agreed with the local planning authority following an aerial inspection. Description of works altered from felling following discussions. NO OBJECTION.

4.13 11/05203/TCA – Fell. OBJECTION, TPO made.

4.14 12/01698/TPO – Fell. APPLICATION RECEIVED.

5.0 LEGAL AND POLICY FRAMEWORK

Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in Part VIII of the Town and Country Planning Act 1990 and in the Town and Country Planning (Trees) Regulations 1999

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands considered to be under threat. This is in keeping with Government guidance, and takes account of the visual impact of the trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to make provision for the preservation of the trees. The TPO was made on 15 December 2011. This took effect immediately and continues in force for a period of six months.

Planning Policy

5.6 Bath and North East Somerset Local Plan including minerals & waste policies 2007

C2.22 'Trees are an important part of our natural life support system: they have a vital role to play in the sustainability of our urban and rural areas. They benefit:

- the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;
- the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- the social fabric in terms of recreation and education’

C2.23 ‘Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. The management and retention of significant trees is therefore pressing’

C2.25 ‘Bath & North East Somerset has a duty under the Town and Country Planning Act 1990 to ensure tree and woodland preservation wherever it is appropriate. The Council will continue to protect trees and woodlands through Tree Preservation Orders (TPOs) as appropriate. There is also a level of protection afforded to trees in Conservation Areas (CAs). However there are many trees of value outside these designations and careful consideration should be given to the removal of any tree’

6. CONCLUSION

6.1 The tree makes a significant contribution to the landscape and amenity of this part of the Bath.

6.2 Confirmation of the TPO would ensure the retention of the tree. Should it be found in the future that it would be unreasonable to retain the tree the Council will then be able to ensure that a replacement tree is planted.

6.3 In keeping with the Council’s commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

Contact person	Jane Brewer 01225 477505
Background papers	The file containing the provisional Tree Preservation Order, relevant site notes, documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number.



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108 Bloomfield Road
Bath
BA2 2AR

16 February 2012

By hand and by email

Dear Jane,

Ref: Pine Tree at 108 Bloomfield Road (TPO – No. 269)
Your Ref: 11/05203/TCA

I write formally to lodge my objection to the above Tree Preservation Order made on 4th January 2012. I wish also to request that our previous Application for Tree Works, which was lodged on 5 December 2011 be treated as an application under the TPO for felling the tree. Please let me know however if further information or documents are required from us in order for such a new application to be considered, pending resolution of the determination of the validity of the present TPO.

Before buying the above property, we had a report commissioned on the trees at the property by Brynley Andrews (a consultant arborist / arboriculturalist). This was a general report concerning all trees at the property. Following various discussions with you and with Mr Andrews, we commissioned Mr Andrews to conduct a second, more detailed, arboricultural report on the pine tree alone to obtain more information on the state of the tree and what pruning might be beneficial. The conclusions of this second report, which involved a climbing inspection by the arboriculturalist, were as follows:

- *The tree has significant but not a great value;*
- *The climbing inspection found significant structural defects that could cause the tree to collapse or its trunk to fracture at about 10m. The level of risk of harm associated with the trunk fracture has been calculated to be acceptable to impose on others, however, the level of risk of harm associated with the whole tree falling is unacceptable;*
- *Action is required to reduce the risk of the tree falling into the road; on the basis of systematic objective risk assessment this action must be undertaken within 6 months, preferably within 3 months;*
- *Options for pruning the Pine are limited by the fact that this species does not have dormant buds from which regrowth can occur and therefore crown reduction is not a realistic option. Crown thinning would need to remove so much that the tree would*

probably be killed. A combination of light reduction and thinning is feasible but arguably misguided as the tree will still have weak anchorage and the owner could be held liable when it falls;

- *Felling the Pine is therefore logical and justifiable on the basis that other options will disfigure it or at least hasten its demise. It makes more sense to concentrate efforts on cultivating the next generation of trees for this property and to concentrate these efforts on species that will not be a major nuisance or safety issue – such as Magnolia, Yew and Persian Ironwood.*

We formally applied (again) to the Council to seek permission to have the pine tree felled, which has resulted in the subject TPO. Both of Mr Andrews' reports were filed with the Application for Tree Works, which I lodged on 5 December 2011.

I wish to object to the TPO on the grounds that the tree has been judged by an independent expert as being dangerous and that it therefore poses an unacceptable health and safety risk to me, my family, my property and the public at large. It is in any case in a state of decline and is slowly dying we are told. We have been provided with no compelling evidence to the contrary to date by the Council.

You have supplied some statements of your opinion on the matter, but these give me and my wife little comfort. At best they leave us questioning which of two experts have the correct opinion on the real risk to my and my family's safety. This is not a position that I believe is fair or right. Anytime there are high winds in the area, we are now extremely concerned that the tree, or a part of it, will fall down causing significant damage to our property, to the phone lines that run very close to the tree, or worse hurt or kill someone. (If the tree were ever to fall it is difficult to imagine how it could fall without causing significant damage and disruption to us and our neighbours - it is very close to phone lines and would it seems fall onto the pavement and road outside our house).

There was talk of scientific "pull tests" being carried out by BANES and at BANES cost, which might have provided some better comfort, had the tests proved that the tree was indeed safe, but no such tests were approved or carried out. We are therefore left with an expert's opinion stating that the tree is dangerous.

We have sought our neighbours' opinions on the matter and I attach a copy of a letter that we sent to all of our immediate neighbours and those who we thought might be affected by the felling of the tree (about 10 or so in total). Of those who responded, all were supportive of our decision to apply to fell the tree.

The letter sent to us informing us of the TPO, merely stated that the tree makes a significant contribution to the local amenity and the landscape of the area. We think that the lean of the tree, the asymmetry of the tree and the stumps created by previous pruning do not make the tree particularly attractive. Also, the tree is a pine tree and not therefore in keeping with the style of our property or the local environment. It is very close to our house and appears only to be visible from the immediate vicinity (other trees and houses shield the tree when viewed from most locations).

Whilst the letter we received on the making if the TPO supplied no justification for the making of the TPO, other than a statement to the effect that the tree has significant amenity value, you kindly provided in your email of 23 January 2012 a non-exhaustive list of reasons. My comments on these are as follows:

Your comments/reason	My reply
<p>1 Based on the information currently supplied I disagree that the tree would require felling within 10 years due to decline (under 4. Discussion) which appears to be the only reason presented for the felling of the tree in the report dated April 2011.</p>	<p>You simply state that you disagree, but do not provide any reasons why. This provides no comfort to us, as to the safeness and healthiness of the tree. The April 2011 was only a preliminary report too, so should be given less weight than the later October 2011 report that focussed on the Pine Tree alone.</p>
<p>2 The subsequent report dated October 2011 refers to 'suspected weak root plate anchorage' with no facts presented to support this. Pines often produce exudates and exhibit minor fibre buckling and bark congestion around branch unions and deadwood. Photographs of these findings with an evaluation should ideally have been included since these findings are not unusual or necessarily significant. The junction between a branch and stem will exhibit changes and differences between the orientation of the branch and stem fibres. Trees within an urban setting can not be expected to be completely free of defects.</p>	<p>Again, you effectively state that you disagree but again you have not provided any evidence to show that the root plate anchorage is not weak. The arboriculturist that spent a good few hours inspecting the tree has provided his opinion and his conclusions. Some of these issues appear to depend on matters of opinion at present, but why should your opinion carry more weight than My Andrews'?</p>
<p>3 The April and October reports are in conflict. In the April report the tree is considered ' a major arboricultural and landscape feature'. Whereas the October report downgrades the stating that it 'has significant but not a great value'. The April 2011 report suggests alternative works (please see decision 11/03481/TCA) yet the October report dismisses other options</p>	<p>As mentioned above, the October report focussed on the Pine tree and was commissioned to obtain more information about the options for pruning and the general health of the tree. (What would be the point of pruning the tree if it is dying and/or dangerous?) As such, the April report should be given less weight. It is not</p>

because they would 'disfigure it or at least hasten its demise'.

surprising that a later more detailed report finds new issues to report on is it?

Lastly, we should reiterate that we would like to plant other trees in other parts of our garden, but farther from our house, in due course. If it would help the Council come to a reasonable settlement of this matter, we would be prepared to undertake to plant trees of a more manageable and appropriate kind in our garden.

I look forward to receiving your response.

Yours sincerely,

Jim Pearson
07976 618 754
jimpearson53@hotmail.com

108 Bloomfield Road
Bath
BA2 2AR

17 January 2012

Dear Neighbour,

Ref: Pine Tree at 108 Bloomfield Road

As you may know, we have sought permission from the Council to fell the large pine tree in our garden.

We moved into our house in May 2011. Before we moved in we had a report commissioned on the trees at the property (conducted by a consultant arboriculturist) and more recently we had a detailed report on the pine tree alone, as that was giving us cause for concern. That last report suggested that the pine tree was in decline and recommended that we take action to reduce the risk of the tree falling into the road within 3 to 6 months. We were advised against simply pruning the tree. We are hoping to plant other trees in other parts of our garden in the future.

The Council has now placed a temporary tree preservation order (TPO) on the tree, leaving us in a very difficult situation. We have been told by an independent expert that the tree is potentially dangerous yet the Council appear not to be giving any weight to the report we had commissioned.

We would be interested to know how you feel about this:

- Do you think that the pine tree is attractive, notable and/or of local importance?
- Would you feel adversely affected if the tree were felled?
- If "yes" to either of the above, would you nevertheless support us in our application to fell the tree in view of the safety issues raised by the arboriculturist?

Please feel free to phone, email, or send us a letter, or come round for a chat. You can also contact the Council directly if you prefer. Full details of the application we have made, including the arboriculturist reports in full, can be found at:

<http://idox.bathnes.gov.uk/WAM/showCaseFile.do?appNumber=11/05203/TCA>

Thanks and kind regards,

Jim Pearson
07976 618 754
jimpearson53@hotmail.com

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	9th May 2012
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
TITLE:	APPLICATIONS FOR PLANNING PERMISSION
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

List of background papers relating to this report of the Development Manager, Planning and Transport Development about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.
- [2] Department work sheets relating to each application/proposal as above.
- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
 - (i) Sections and officers of the Council, including:
 - Building Control
 - Environmental Services
 - Transport Development
 - Planning Policy, Environment and Projects, Urban Design (Sustainability)
 - (ii) The Environment Agency
 - (iii) Wessex Water
 - (iv) Bristol Water
 - (v) Health and Safety Executive
 - (vi) British Gas
 - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
 - (viii) The Garden History Society
 - (ix) Royal Fine Arts Commission
 - (x) Department of Environment, Food and Rural Affairs
 - (xi) Nature Conservancy Council
 - (xii) Natural England
 - (xiii) National and local amenity societies
 - (xiv) Other interested organisations
 - (xv) Neighbours, residents and other interested persons
 - (xvi) Any other document or correspondence specifically identified with an application/proposal
- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

The following notes are for information only:-

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an

application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting the requirements of the above Act, other letters and documents of the above kinds received after the preparation of this report and reported to and taken into account by the Committee will also be available for inspection.
- [4] Copies of documents/plans etc. can be supplied for a reasonable fee if the copyright on the particular item is not thereby infringed or if the copyright is owned by Bath and North East Somerset Council or any other local authority.

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	12/00277/FUL 10 May 2012	Girl's Day School Trust Cranwell House, Weston Park East, Upper Weston, Bath, BA1 2UY Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall.	Weston	Richard Stott	Delegate to PERMIT
02	12/00278/LBA 5 April 2012	Girl's Day School Trust Cranwell House, Weston Park East, Upper Weston, Bath, BA1 2UY Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall.	Weston	Varian Tye	Delegate to CONSENT
03	12/00488/FUL 18 April 2012	Dr Stephen Hill 40 Audley Park Road, Lower Weston, Bath, Bath And North East Somerset, BA1 2XN Erection of balcony, rendering of garage and utility and alterations to two storey side extension (Retrospective).	Kingsmead	Rebecca Roberts	PERMIT
04	12/00980/FUL 19 June 2012	Bloor Homes Summerfield School Lime Grove Site, Lime Grove Gardens, Bathwick, Bath, Bath And North East Somerset Erection of 13no. dwellings with associated parking and landscaping following demolition of existing school buildings (Resubmission).	Bathwick	Suzanne D'Arcy	Delegate to PERMIT

05	12/00292/FUL 3 April 2012	Mr Jon Avent 53 Minster Way, Bathwick, Bath, Bath And North East Somerset, BA2 6RJ Erection of new detached dwelling in the grounds of the existing house and associated new vehicular access and hardstanding	Bathwick	Alice Barnes	PERMIT
06	11/05320/FUL 13 March 2012	Miss V. K. Withers Leaning Pines, Thrubwell Lane, Nempnett Thrubwell, Bristol, Bath And North East Somerset Erection of a single storey dwelling following demolition of existing dwelling and associated outbuildings.	Chew Valley South	Victoria Griffin	REFUSE

REPORT OF THE DEVELOPMENT MANAGER OF PLANNING AND TRANSPORT
DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 12/00277/FUL
Site Location: Cranwell House, Weston Park East, Upper Weston, Bath



Ward: Weston **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor C V Barrett Councillor M J H Lees
Application Type: Full Application

Proposal: Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall.

Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,
Applicant:	Girl's Day School Trust
Expiry Date:	10th May 2012
Case Officer:	Richard Stott

REPORT

REASON FOR REFERRING APPLICATION TO COMMITTEE: This application was called to Committee by Cllr Lees (Weston) who has raised concerns about the traffic generation potential of the site and the impact on the local road network. Prior to the Committee, there is to be a Members' site visit on the 30th April 2012 in order to look at the site and gain an appreciation of the issues.

DETAILS OF LOCATION: Cranwell House is a vacant school building located on the north-western fringe of Bath. It is located within the Bath World Heritage Site and the Conservation Area. The main building dates from the 1850s. It was built for Jerom Murch, former Mayor of Bath and is Grade II listed. There are two existing accesses into the site, both on Weston Park East. The main house is surrounded by parkland, part of the former Cranwell estate, a lot of which was parcelled off for housing development in the 20th Century.

DETAILS OF PROPOSAL: This application seeks full planning permission for the erection of a new teaching building adjacent to a listed building following the demolition of the existing classroom units and outbuildings at the top of the site. The application also proposes to refurbish the listed building to bring it back into a usable state for continued education purposes with associated landscaping and engineering works and improvements to the main access drive.

For clarification it should be noted that listed building consent is not required for the erection of the building adjacent to the Cranwell House as it is a freestanding building. Likewise listed building consent is not required for demolition of the free standing modern former school structures which date from post 1st July 1948. However, a Conservation Area Consent application has recently been submitted for their demolition. Listed building consent is however required for the works to the interior of the property and the listed structures on the site.

RELEVANT HISTORY

12/00278/LBA - Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall - Counterpart Listed Building application recommended for permission subject to conditions.

12/01194/CA - Conservation Area Consent for the Demolition of the 1960's building at the top of the site - PENDING CONSIDERATION

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY OFFICER: No Objection.

- The highway officer has suggested conditions and requested a £10,000 contribution to improve the highway network in the immediate area.

- The access arrangements are acceptable generally and the site will continue to be occupied within its existing use class.
- Access at the current school site is unsuitable and this site will improve the current conditions.
- Widening of the current drive will improve vehicle flow however there will be controls in place to ensure low speeds are maintained.
- Active managements at the gates is required and an operational statement is to be submitted.
- A car can still pull off the highway in the event that the gates are locked in order to gain access.
- Visibility is below standard but cannot be improved (due to listed nature of the site).
- Vehicle speeds passing the entrance are generally low and there are no reported incidents along this section of road.
- Parking layout is acceptable.
- The proposals do not result in a material increase in teaching space, and therefore it would be difficult to argue any objection based on the use.
- It is clear that the means of access to the site, via Weston Park East, suffers from on-street parking, which results in an element of shuttle working where the road width has been reduced by parked vehicles; (this could be addressed via a TRO secured through financial contributions).

ENGLISH HERITAGE: No Observations.

Recommends that the application should be determined in accordance with national and local policy guidance, and on the basis of the Councils expert conservation advice

ECOLOGICAL OFFICER: No Objection.

Satisfied with the details presented and the mitigation proposed. EPS Licence will be required and conditions relating to the bats and badgers on the site are requested.

NATURAL ENGLAND: No Objection

Broadly satisfied with the mitigation and if implemented it is sufficient to avoid adverse impacts on the local population of bats, reptiles and newts, preserving the favourable conservation status. Licence application to Natural England will be required for works affecting protected species.

HISTORIC ENVIRONMENT OFFICER: No Objection, Subject to conditions

Although having reservations about some aspects of the scheme the proposals provide the opportunity to secure the future viable use of the listed building and there are also heritage benefits associated with the scheme.

ARBORICULTURAL OFFICER: No Objection, subject to conditions.

LANDSCAPE ARCHITECT: No Objection, subject to landscaping conditions.

PUBLIC RIGHTS OF WAY: No Comment

REPRESENTATIONS:

5 letters of support received from 4 groups raising the following points:

- Continued use of the site for educational purposes is welcomed
- Brining back into use a vacant building
- Retention of the site as a whole in a single use – means the site will not be “hived off”
- Retention of site integrity
- Management and preservation of the parkland
- Effective traffic management will actually have the effect of calming traffic and slowing speed
- Plans are well thought out
- Sensitive approach to the site
- Removal of the ugly declining ancillary buildings is welcomed
- Improvements to the grounds are welcomed

BATH PRESERVATION TRUST: Supports both the listed building and planning application. In a general response to both applications they mention such points as:-

The development would secure the use of the site for education and bring the building back into a beneficial use.

They support the repairs and alterations to Cranwell House. The exterior alterations proposed are considered to enhance the character and features of the listed building.

They support the proposed demolition of the unsightly modern buildings such as the existing art room and the creative approach to the new build.

The trust welcomes the location, design and height of the new build.

The use of natural slate as a cladding material for the new build is supported in this context. They believe the materials will harmonise with both the traditional palette of Cranwell House and the landscape. The slate would have the necessary degree of subservience and would not compete or distract from the Bath stone and architectural detail of the main house. The natural slate should be appropriately selected.

15 letters of general comments received from 14 individuals raising the following points (Summarised), (note: 12 of the letters express support for the new building works and reuse of the school but object on the grounds of traffic issues):

- Create a turning circle to ease traffic flow pressure
- Stagger the collection time in the afternoon
- Expand the double yellow lines on Weston Park East (to ease flow of traffic)
- School buses should be loaded or unloaded on site
- Missing consultation letter (since rectified)
- Clarification sought about the impact of RUH staff parking in the area.

48 letters of objection received from 43 groups. (As the majority of these discuss the same or similar issues, the salient points are summarised below). Note the majority of

applications relate to parking and wider strategic highway issues rather than the proposed works affecting the listed building, many of the objectors actually state that they are supportive of the new building):

- Concern about congestion at peak times along Weston Park East
- Suggest loop road connecting top and bottom drives (reinstate historic route)
- Increase parking and congestion potential in Cranwells Park
- Insufficient consideration given to the effect on traffic
- Compounding problems associated with RUH staff and other commuters parking along Weston Park East
- Compound problems at junction with Weston Lane
- Increased traffic flow prejudicial to pedestrians in the area
- Onsite parking should be increased
- Adverse impact of construction works on neighbours,
- Inappropriate nature of the new build proposed for the site.
- The new build has little if any sympathy with the existing listed building and it would be preferable to have a more durable, traditional and sympathetic design.
- New building is too large
- Slate cladding is not in keeping with Bath
- Timber cladding inappropriate
- Concern over parking, dropping off and pedestrian access on Summerhill Road
- Traffic survey carried out on the 19th December when the roads were quiet (Note, an additional survey has since been carried out on the 8th March confirming some increase in flows on Weston Park and Weston Lane/Weston Road, but also confirming a marginal decrease in flows on Weston Park East when compared to the original survey)
- Increase pupil capacity compared to previous use of the site from 60 – 150 and potential to 240.
- The application represents a change of use of the site
- Preference for a car park/drop off area in the lower grounds
- Widen the gates to improve access
- Restricted visibility at entrance gate
- Can the children be bused in?
- Two way traffic on Weston Park East is already restricted due to cars parking on the road
- The use of the site will lead to an accident
- Close the path next to 31 Cranwells Park to discourage parking and access from Cranwells Park
- Two minibuses with 16 pupil capacity to shuttle children is insufficient
- Health and Safety risk to children by using one entrance for two way traffic
- Stationary vehicles on the drive will cause disturbance to adjacent dwellings through noise and exhaust fume pollution
- Footpath needed alongside the drive to encourage walking
- Frequency of traffic movement to the rear of adjacent dwellings will harm amenity
- Loss of privacy to the two gardens at the south of the site
- Insufficient staff and visitor parking
- Safety issue due to camber of the road when wet or icy

- What happens if parents need to stop for any longer period of time? This will lead to congestion and bottlenecking
- Residents Parking Zones required
- IMA report and Highway Officer comments underestimate the seriousness of the situation
- Lack of parking for events, open days and parents evenings
- Acoustic fence needed around the site to contain noise
- Loss of light from tree planting
- Loss of trees and scrub, detrimental to the environment
- Problems with cars stopped on the road waiting for the gates to be opened
- What is wrong with the use of the schools current site on Lansdown Road

POLICIES/LEGISLATION

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE POLICIES ADOPTED FOR OCTOBER 2007

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and Their Settings

BH.6 Conservation Area

NE.4 Trees and Woodland

NE.10 Nationally Important Species and Habitats

T.1 Overarching Access Policy

T.24 Development and Access

T.26 Parking

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B4 World Heritage Site

Policies D.2, D.4, BH.2, BH.6, NE.4, NE.10, T.1, T.24 and T.26 of the adopted Local Plan are saved policies.

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF came into immediate effect on the 27th March 2012 however confirms that existing Local Plan Policies will remain extant for a period of 12 months. Due consideration has been given to the NPPF however it does not raise any issues that conflict with the existing Local Plan policies.

EIA SCREENING OPINION

Although this proposed development does not fall within Schedules 1 or 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the site is located within the World Heritage Site, a designated "sensitive area", and therefore the application has been screened. In consideration of the regulations the Authority is content that the proposed does not constitute EIA development and is satisfied that the significance of environmental impact of the proposed new building would be negligible on the wider setting of the World Heritage Site.

OFFICER ASSESSMENT

PREAMBLE: This application relates to Cranwell House, a vacant school site located on the northwest fringe of Bath. The site has been used as a school for many years and has

recently been purchased by the Girls Day School Trust with the intention of refurbishing the site and relocating the junior element of the Royal High School from their current location on Lansdown Road.

The application seeks consent for the demolition of a range of 20th century buildings located to the rear of the main school to be replaced with a contemporary, purpose built teaching block. The proposal details a significant level of internal alterations to the main building. However these are outside the scope of this planning application and are to be dealt with via the accompanying listed building application. In addition to the principal element of this scheme the application proposes landscaping works to the site as well as engineering works to create a new retaining wall behind the new teaching block. The site has two accesses, one to the north and one to the south. After considerations of various options, for reasons that will be set out in this report the proposal is to modify the existing southern route to improve the access to the site.

ESTABLISHED USE OF THE SITE: It is essential to note that the site has an established use as a school which falls into Use Class D1 and that the proposal is to retain the use of the school within the same use class (as set out in the 1987 Use Class Order, as amended). Many commentators on this scheme have objected to the "change in use" on the grounds of the increase in activity and occupation when compared with how the site used to operate. In planning terms however it needs to be made clear that irrespective of the intensification of the use of the site and all the associated perceived issues, the use itself is not changing and the application cannot be considered on this ground. It has been suggested that a condition is imposed on any planning permission granted to restrict the number of pupils using the site so as to limit or restrict the potential volume of traffic generation. Having considered this request in light of the six tests for conditions as set out in Circular 11/95 it is felt that such a condition would not be relevant to the development being permitted as this application is seeking consent for the erection of a new building, not a change of use of the site. In light of the Conditions Circular and the extant use of the site, a restrictive condition would not be acceptable and would be challengeable.

The reason it is important to make this point clear is that had the school not decided to develop the new building, they could have occupied the site without having to gain planning permission (listed building consent would be required for the internal works however such an application would not have considered issues of traffic generation). Indeed, it is worth noting that if this application were to be rejected, occupation could still occur with the fallback position of using the existing c.1960s block at the top of the site. It is clear that there are concerns related to traffic generation in the area (discussed later) and there has been quite a vocal campaign against this development on the grounds of traffic. However, the benefit of considering this planning application is that the Council can secure improvements to the access arrangements and traffic management, and can seek financial contributions to the local highway network to seek improvements, all of which would not be possible if the applicant had decided not to proceed with the scheme.

IMPACT ON HIGHWAY SAFETY, ACCESS AND PARKING: By far the biggest objection to this application relates to highway issues, particularly concerning the re-use of the site which has been vacant for several years and the impact that additional traffic will have on the local network. Many of the concerns expressed relate to wider strategic highway issues in this part of Bath concerning the impact of on street parking and congestion (particularly relating to vehicles associated with the RUH). Whilst the wider strategic

concerns are noted, this application needs to be kept in perspective and as such this report will only discuss issues concerning the impact of the development on the immediate area.

The issues can be broken down into four main areas; the access arrangements and use of the southern entrance for two-way traffic; the potential for congestion along Western Park East (compounded by the existing on-street parking); the potential for increased vehicle movement and parking in the surrounding streets along Summerhill Road and Cranwells Park; and the level of consideration given to other alternatives for accessing the site. It is noted that the highway officer has not objected to this application and although she has stated that the situation is not ideal, she has referred to the implications of the fall-back position of the extant use of the site.

Given that the school could occupy the site without any form of planning control over the access arrangements, it would be hard to sustain a reason for refusal on the way the site is to be used or on the fact that there will be additional vehicle movements. It is accepted that traffic generation will be higher than the site has previously experienced and it is also accepted that the sustained period of vacancy has resulted in the area becoming relatively free of traffic associated with use of the site.

In assessing this application, working with the applicant and the school, officers have sought a resolution that will minimise the concerns of local residents and limit the impact the increased numbers of movements would have on the immediate area.

Financial contributions of £10,000 have been requested and could be used to implement a Traffic Regulation Order along Weston Park East and to improve the junction with Weston Lane. The use of double or single yellow lines along Weston Park East would remove the ability for cars to park along here and would remove the obstruction to one of the carriageways. In returning the road to two carriageways, traffic flow would be improved, thus reducing general congestion in the area which would be an overall benefit to the area.

The dropping off of children in the morning is generally concentrated over a 30 minute period between 0800-0845 but there is a greater stagger of movements in the evening from between 1515-1800. The use of this site is therefore going to result in periodic peaks in traffic volume rather than a sustained increase that could be expected if the site were operated in a different use class. Whilst it is accepted that the morning peak will coincide with the rush hour it is unlikely that the increase in traffic in the area is going to lead to any level of significant disruption, particularly if access along Weston Park East is improved through a TRO. In terms of the afternoon collection period, this will be more spread out coinciding with the end of school, the end of sports activities and the end of after school clubs. Less concern is raised in respect of the afternoon period of collection as this will be more fluid.

The school currently operates at a site on Lansdown Road and for many years has successfully worked on a busy main exit route from the city, thanks to proven site management. The school has agreed to submit an operational statement which can be secured via condition to demonstrate how traffic flow will be managed so as to reduce the impact of congestion. Given the successes noted at the current site (which is in a far busier location with much higher volumes of traffic and problems associated with on-street

parking), there is no reason to suggest similar management would not work successfully here where there is less risk from the speed and volume of traffic.

In terms of the access route itself, the existing route is to be modified and widened to adequately accommodate two-way traffic, thereby reducing the potential for congestion. There is a section directly behind 23 and 24 Cranwells Park which is to be reduced in width so as to remove the ability for vehicles to park here and to limit the disturbance to the adjoining residents. This area is also shown as being planted to limit the ability of drivers to park or drive on the grass. Parking is to be laid out centrally on the existing hard standing in front of the school providing 9 dedicated spaces, including 2 disabled bays. This arrangement allows circulation of vehicles during drop off and pick up time and is deemed sufficient. To cater for any parents who for whatever reason need to stop for longer, so as to avoid congestion and in order to allow the continued flow of traffic, there is sufficient width along the final uphill stretch of the driveway for temporary parking. The control of this area is to be defined and controlled within a management plan/operational statement but will mean that circulation of traffic is unimpeded.

The use of the top entrance has been considered at length as an alternative but has been rejected. Firstly, any drop off area in this location would be detached from the main school entrance and would make the management of pupil collection by school staff more difficult. At present the intention is that staff will collect children from their parents at the main entrance and ensure they are escorted into the school. The nearest drop off location on the north access is some 65 metres (direct line) from the main school entrance. Staff would therefore have to collect children in batches and escort them to the main building, meaning that a backlog of cars would build up on this access as parents wait for staff to return. In addition to the problem of child management and collection, there is insufficient space on this access route to provide a turning head. The only option would be for cars to drive up to the top area where the existing building is currently located. However, the width of the road in this location is insufficient to allow for two-way traffic. The access road at this point could not be widened without significantly compromising the life of the existing cedar (reference T6272), which is the most vulnerable tree to this proposal and is considered as being worthy of a TPO. The technical difficulties in achieving a satisfactory route accessed to the north of the site and the potential harm to one of the most prominent trees on site are the primary reasons for discounting this as a viable option, particularly given the bottom entrance and route can be modified with minimal impact on the local environment.

Several residents have suggested that a loop road should be created, whereby cars enter the lower gate and exit through the top to create site circulation. It has been identified that the course of a former loop road exists on site (shown on historic maps), sweeping from the car park to the west and then curving around to a point on the northern access adjacent to the proposed new building. Drains and curb stones still exist but it is noted that the width of the track is far too narrow to accommodate modern vehicles. The route of this former track is lined by several mature trees and cuts through where the existing play area is located. Whilst it would be physically possible to reinstate a loop road, such a route would have a significantly detrimental impact on the landscape character of the site and the setting of the listed building. It would require the route of the track to be widened which would harm the undulating character of the site and it would see the loss of several trees which would again harm character. In terms of health and safety it would see vehicles crossing the site in an area to be used by children posing a significant risk. In order to

reduce the risk, it would require lining the route with a suitable grade of fencing, which would harm the setting of the listed building. Overall, given that the access arrangements can adequately be provided on the existing main access route, the limited benefits of providing a loop road do not outweigh the significant harm to the wider setting of the site. Due consideration has been given to this option. However, for the reasons stated, this option has been rejected.

The current gates at 4.1 metres in width are adequate to allow for access to the site and there is sufficient room for a single vehicle to pull in off the road in the event that the gates are closed. Consideration has been given to widening the gate piers to allow for two cars to pass but this would not be supported in conservation terms as it would have an adverse effect on the listed structures. Given that the gates are of an acceptable width and unlikely to result in anything greater than sporadic congestion, no further amendments to this element of the scheme are proposed.

The operational statement will stipulate that the pedestrian gate from Cranwells Park is to be restricted access only and not to be a primary route into the site. Pupil drop off is to be through the main entrance only where pupils are to be directly collected by staff. In consideration of this application, which will be tied to an operational statement, the proposed re-use of Cranwell House is unlikely to give rise to parking pressure in either Cranwells Park or on Summerhill Road to the north.

Overall, in consideration of the issue of access and highway safety, no objection is sustained to the improvements to what are currently substandard arrangements for a site with an established educational use. If this application were to be rejected, it is a realistic situation (as stated) that the school could operate from the site. However, the Council would lose any ability to seek the improvements noted or exercise any control over matters of access, parking and vehicle movement. The benefits of permitting this scheme therefore far outweigh the reality of the fall-back position.

HEALTH AND SAFETY: In assessing this application due consideration has been given to the relevant Health and Safety at work legislation in terms of reasonably and practicably minimising the risk to end users of the site. The HSE were consulted on this application and have confirmed they will not be commenting on the application. Ultimately the duty of care rests with the school to ensure staff, pupil and visitors are adequately protected from risk. However, officers are satisfied that this application does not raise any significant Health and Safety issues.

SETTING OF THE LISTED BUILDING: Consideration has been given to the location of the site for the new building and its appearance, bearing in mind the setting of the surrounding heritage assets. The following comments are taken from the Conservation Officer's consultation response and report:

- LOCATION OF THE NEW BUILD.

In principle the location for the new build is considered appropriate as the rear courtyard was the site of the historic stables/coach associated with the former Mansion house and a building in this area also helps reduce the visual impact of the development on the wider historic park, Conservation Area and World Heritage Site. The school also proposes to demolish a group of modern former school buildings on higher ground on the brow of the

hill to the north, and development of the courtyard will also result in the further demolition of a modern class room to the rear of the conservatory/vine house. It is understood that the (GDST) also prefer this location for the new build due to its close proximity to Cranwell House.

- A CONTEMPORARY APPROACH AND THE MATERIALS PROPOSED.

There is no objection in principle to a contemporary approach in the design for the new building. However, the Conservation Officer has expressed reservations regarding some aspects of the appearance of the new build, for example the use of natural slate for the external walls. One of the important characteristic of the Conservation Area and the World Heritage site is the visual harmony created by the use of natural limestone in the construction of external walls in Bath. This helps to reinforce the local character and distinctiveness of the area. Natural slate used on roofs is also a common characteristic but not used on external walls. Notwithstanding this, the Officer is conscious of the considered design approach adopted by the architect for this development and the arguments puts forward to justify the use of such materials in this case. On balance the use of natural slate on the roofs of the new development is welcomed, and on close balance a cautious yes is given to the use of natural slate on the external walls of the main sections of the new build. It is confirmed that there would be no objection to the use of timber on the smaller single storey link building. It will be important to ensure that appropriate conditions are attached to control the final appearance/details of the external materials to be used on the new build and confirmation on such details as the eaves of the new building by large scale drawings are also advised.

- SCALE, BULK AND MASSING OF THE NEW BUILD

In order to address concerns raised by officers in pre-application discussions regarding the scale, bulk and massing of original proposals for the new build, the architect has broken the development into two main sections: the hall, and the additional classrooms. There is a central smaller link, and the design has incorporated split levels. The architect also confirms that this has had the effect of reducing the scale of the proposals and breaking up its mass, whilst still maintaining the fundamental design approach.

The revisions to the originals scheme are welcomed. The eaves lines of the new hall align with the eaves line of the historic single storey conservatory to Cranwell House, which is welcomed, and that the eaves line of the taller section accommodating the new classrooms is approximately 3 meters below the top of the stone balustrade on the roof of Cranwell House.

The use of the low hipped pitched natural slated hipped roofs also helps to a degree in reducing the scale and bulk of the building. In the case of the taller classroom section the ridge line lies approximately 1 metre below the top of the stone balustrade on Cranwell House. However, that to the new hall, because of its footprint, does protrude some c.2. 5 metres above the ridge line of the historic conservatory. The considerable width of the hall, some c.16 metres wide, is also in marked contrast to the width of the historic conservatory and palm house which is only c.6 metres wide at its largest point.

The footprint of the new build is some 256 sq metres. That of Cranwell House, without the conservatory and palm house is approximately 551 sq metres. In terms of footprint the

new build is therefore relatively substantial compared to Cranwell House. However, the architect has tried to reduce its impact by the design approach adopted.

Notwithstanding the improvements made on reducing the scale and bulk of the new building, the Conservation Officer still has concerns about the scale and bulk of the new hall, particularly when viewed in closer proximity from the surrounding area, and in the context of the smaller scale of the historic conservatory and the former palm house. The fact there was historically a larger stable and coach house that once sat behind the conservatory/palm house does not negate the concerns raised. However, in its present form the hall meets the minimum requirements for the needs of the school for a new building on the site and it is essential for the school plans for the site.

On balance the Officer advises that the scale and bulk of the new hall causes some harm to the immediate setting of Cranwell's House, but does not believe this amounts to substantial harm. The harm caused also does not justify a refusal when weighed against the heritage benefits associated with the proposals for the site, for example the removal of the unsightly modern school buildings on the higher ground to the north and the modern class rooms already on the rear courtyard, the proposals to undertake works to Cranwell House which will help restore its character and improve its external appearance (please refer to the report on the listed building consent elsewhere on this agenda) and the wider benefits associated with the future management/maintenance of the historic park, identified as an undesignated heritage asset, which the use of the site as a school should bring.

Furthermore, from a historic building viewpoint, securing a viable and appropriate future use for the listed building is an important consideration and the continued use of the site for educational use by (GDS) would appear to achieve this.

In conclusion, on the basis of a balanced judgement, and bearing in mind appropriate legislation, guidance and the appropriate policies of the Local Plan, the Conservation Officer has stated he would not wish to recommend refusal for the proposed development.

- OTHER WORKS.

The works to the historic gated entrance and rear courtyard retaining wall are assessed in the listed building application and no objection is raised. Further discussions are required on the detail and appearance of the gates for which appropriate conditions should be attached.

Conditions covering samples of the new hard surfacing treatments proposed in the scheme would be appropriate, sample panel of the stonework, including lime mortar pointing, for the new section of the stone retaining wall to be erected to the north of Cranwell House, and landscaping would also be appropriate.

CONSERVATION AREA AND WORLD HERITAGE SITE SETTING: Seen in the wider context of more distant views from the historic park and other parts of the Conservation Area or the World Heritage Site, no concerns are raised. The proposed development is discretely placed on the site and has been designed in a way so as to minimise its impact beyond the site boundaries. Overall it is considered that the proposed development will

preserve and enhance the character and appearance of the Conservation Area and is unlikely to harm the setting of the World Heritage Site.

RESIDENTIAL AMENITY: Concern has been raised by the occupiers of two dwellings located on Cranwells Park immediately to the south of the site in respect of the detrimental impact vehicle movements adjacent to the boundary would have on the future enjoyment and amenity of private areas of these residences. Both of these properties are within 10 metres of the site boundary. However, due to the change in levels across the site, the rear patio areas of both dwellings are at a considerably lower level than the site access road. When viewed from the rear bedrooms of these dwellings, the site access road sits at a similar level, meaning vehicle movements will pass in line with these windows. This raises two concerns, firstly the impact on privacy as drivers will have the ability to look into these windows and into the private garden area of number 24 (albeit glancing views), secondly the impact that stationary vehicles along this section of road would have in terms of noise and smell. It is noted that number 23 has a large close board timber fence running along the site boundary and as such the site and the access road are largely unseen from the position of the rear garden on this property.

Careful consideration has been given to the concerns raised in order to find an amicable solution. However, it must again be stressed that this site has an established use as an education facility and that the main access road has existed in its current location since Cranwell House was first built. It would be difficult therefore to sustain an objection on the grounds of the use of this road, and although it is noted the site has not been used for several years, meaning that vehicle movements have been low for some time, the access was previously used and vehicles have historically passed with regularity in close proximity to the boundary. It is understood that the concern relates more to the volume and frequency of passing traffic resulting from the re-occupation of the site (particularly when compared to how it was previously operated) rather than the principle of vehicle movement.

It is accepted that vehicular movements along the access road would be contained to the drop off and pick up times associated with the school run and would operate on a term time, Monday to Friday, basis, meaning in reality the disturbance to the adjacent residents will be periodic rather than persistent and sustained. In order to mitigate the concerns about traffic associated holiday activities and out of term use, the school has agreed that the northern access can be used during these times, thus removing the concern that the perceived problem would continue throughout the year. Additionally, Officers are seeking an operational statement to ensure the site is actively managed so that congestion is reduced in order to limit the risk of cars being stationary along the section of road passing the site boundary. Assurances are also being sought to clarify the pick-up times associated with after school activities. However, it is accepted that the frequency and volume of movement between 1600-1800 will be minimal in comparison to the morning drop off run.

As noted in the discussion relating to highway considerations, the option of creating a loop road through the site has been discounted for reasons of health and safety, landscape character and the historic environment. This option was also considered in terms of reducing the volume of traffic passing these two affected properties (making the access a one way route would halve the number of movements passing along the same route). Notwithstanding this, the limited improvements to the amenity of these two dwellings for

the periodic times when cars will be passing was not considered sufficient enough to outweigh the intrinsic visual harm to the historic environment and the loss of trees. In balancing the small benefit against the wider losses and harm, the creation of the loop road in the interest of residential amenity has been discounted.

It has been suggested that an acoustic fence is erected along the boundary to limit sound disturbance and reduce the loss of privacy. This option has been rejected by officers as it is considered that in order for a fence to have the desired effect it would have to be of such a height and mass that it would harm the visual character of the site and create a sense of enclosure and dominance that would actually be more harmful to the amenity of the adjoining residents. By way of mitigation, officers have explored ways to increase the level of screening around the site in a manner that would strike the balance of being sympathetic to the surroundings whilst offering an increased level of privacy. In response to discussions, the applicant has agreed to additional planting along the southern boundary and the revised landscape scheme shows 6 new holly trees being included. Once established these should help to limit visual intrusion and maintain privacy, which should help to improve amenity. It is accepted that the trees will not reduce the impact of periodic frequencies of noise; however the reduced width of the carriageway at the closest point to the boundary will prohibit vehicles waiting here and so should reduce the level of impact.

Overall, in terms of the impact on amenity, whilst the concerns of the occupiers of the two most affected properties are noted, it is felt that there are insufficient grounds to sustain a reason for refusal on amenity alone. The school have given assurances as to the operational management of the site so as to ensure the impact is minimised and this can be conditioned through the submission of an operational statement. The use of the northern access out of term time is welcomed as this will mean any disturbance is limited to only certain weeks of the year, and due to the time of drop off and collection, disturbance and loss of privacy will be of a periodic nature only rather than being persistent throughout the day and night. The additional planting offered by the school is welcomed as this will help to enhance the landscape and reduce the impact of overlooking. In terms of noise intrusion, this will again be periodic at set time in the day rather than being persistent (certainly when considering other options for this site including the conversion to residential, a hotel or similar use, the continued use of the site as a school will be far less disruptive). On balance, it is felt that the overall benefits to the site, the active management, the improvements to the landscape and the restoration of the protected building outweigh the limited harm to residential amenity.

Having walked the perimeter of the site, in terms of an impact on residential amenity, no other properties surrounding are considered to be adversely affected by the proposed development.

ECOLOGY: Comprehensive ecological and protected species surveys (including bats) have been undertaken and submitted with this application, which is considered acceptable. It is noted that bat roosts are present in the main building, including roosts of greater and lesser horseshoe bats and that appropriate mitigation proposals have been submitted, and incorporated where appropriate into related plans. In addition, consideration has been given to the position of lighting so as not to create disturbance.

An EPS licence is needed for works to the bicycle shed and area outside it and therefore the Authority must consider the 3 tests of the Habitats Regulations, and the likelihood of a licence being granted by Natural England.

Appropriate mitigation proposals for bats have been included within the submitted plans, including details of external lighting, dark corridors, additional planting, and retention of access points to roost areas. These measures will need to be implemented, and can be secured as part of the consent by conditions where appropriate.

In respect of the Habitats Regulations and the 'three tests': the applicant has submitted arguments for how they consider the three tests have been met. The Council ecologist agrees with the analysis of the 'favourable conservation' test and considers that this test will be met. Consideration of the other two tests must form part of the planning analysis. However, the ecologist has confirmed that she has no particular concerns to raise about the ability of this proposal to meet the requirements of these tests and has stated that she would consider it likely that an EPS licence would be granted.

In terms of the three tests these confirm that; 1) there has to be an overriding public interest in the development; 2) there is no suitable alternative, and; 3) the favourable conservation status is preserved (previously mentioned).

In consideration of these test, firstly, the provision of education and preservation and enhancement of a vacant listed building are considered to be in the public interest, secondly, whilst it is accepted that the school currently operates on a different site, in terms of this site, there is no suitable alternative to the proposed works without compromising the ability to continue education and compromising the works to improve the listed building. Certainly if the site were to be used for an alternative purpose (housing, hotel etc.) the impact on the protected species would be more invasive. Finally, as has been confirmed by the Council ecologist and mentioned by Natural England, it is considered that the proposed mitigation and level of works will maintain the favourable conservation status of the bats.

In regard of the three tests it is considered that all of these are satisfied and that works are therefore acceptable in respect of the level of protection given to European Protected Species.

Provided the mitigation is implemented, in addition to proposed new planting and creation and management of wildlife habitat, there should be no harm to ecology and protected species and there is scope for significant enhancement. Implementation of all mitigation measures and any outstanding details such as details of proposed management to create meadow areas can be secured by condition.

Overall the ecological enhancement, habitat creation and long term management is supported for this application, whilst the outstanding final details for provision of habitat enhancements can be secured as an ecological requirement within the standard landscape and planting condition. Long term management specifications for habitat management, including management of meadow and woodland for the benefit of wildlife, can also be secured either via an ecological condition and being incorporated into the planting and maintenance plans, or as a separate ecological habitat management plan.

In summary, there are no matters relating to the ecology on this site that would be adversely affected by this development proposal that could warrant a refusal.

LANDSCAPE CHARACTER & TREES: In terms of the general landscape proposals the Landscape Architect supports the application stating "I agree with the premise of elegant simplicity and I am generally happy with the details as shown (on the drawings)". The Officer goes on to say, that the primary concern is to the existing trees and how the scheme may impact on them, in this regard deferring to the Tree Officer's comments.

In respect of the works to the trees, the areas of clearing and the areas noted for planting, the Tree Officer has confirmed her support for this application and notes that the proposals relating to alterations and the impact on existing trees have been fully discussed with the applicant prior to the submission of this application.

In respect of the contents of the submitted Arboricultural Implications Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan, there are a number of trees within the site which are considered worthy of a Tree Preservation Order. However, the majority are not considered to be under threat by the current proposals and are already protected by virtue of the conservation area designation. The Cedar (reference T6272) is most vulnerable to the proposals and has influenced the proposals (particularly the siting of the building and limited any alterations to the northern access route which passes close to it). Strict adherence to the precautionary measures identified within a detailed arboricultural method statement will be necessary, which can be secured by a condition.

Overall, there is no objection to the proposed development and works in terms of the impact on the trees.

CONCLUSION

It is clear that the key issue surrounding this application relates to the impact on traffic in the area with only limited opposition to the actual building works and other site improvements. Clearly the role of the Local Planning Authority is to carefully balance all the issues and weigh up whether the benefits of the scheme outweigh the harm. In assessing this application, for the reasons set out above, it is considered that the proposed works to the principal building have been carefully thought out and sensitively designed and ultimately will enhance the site, the listed building and its setting as well as the wider World Heritage Site and Conservation Area.

Whilst the issues relating to congestion and traffic generation are noted, the general improvements to the local highway should be carefully considered. It would appear that the majority of objection is based on the current operation along Weston Park East. Clearly, there is currently an issue with cars parking along the roadside impeding the flow of traffic. This application, secured through a financial contribution, could improve the current problems, reducing the issue of on-street parking and returning Weston Park East to a two way carriageway which would ultimately improve traffic flow and ease congestion. It is important to bear in mind the fall-back position that the school has an established use as an education facility, and that this application could not be refused on the grounds of its use. Additionally, if this application were to be refused on the grounds of traffic generation, it could still be occupied as a school and the improvement works being proposed under

this scheme could not then be secured. In this situation, the problems associated with congestion would be far worse and it is with this in mind, and for the reasons set out in this report, that it is considered appropriate to approve the application, secure the improvements and implement a working management plan.

In consideration of the scheme as a whole the proposed development is welcomed. The Trust who own the site are committed to ensuring it is preserved and enhanced and, being a business, it is likely that they will operate as good stewards so as to maintain their investment and future viability. The scheme will secure the reuse of the listed building, which has suffered neglect in recent years and the internal works will restore and repair the damage carried out in the past. The associated landscape works will enhance the site generally, whilst preserving biodiversity and protected species. Finally, the new building, although contemporary in design, does not compete with or detract from the principal building. If anything, it carefully enhances the setting of the site and unashamedly confirms the use of the buildings in the 21st Century context. Ultimately it provides the teaching space required for the school to effectively function and means that the unsightly and out-of-character 1960s teaching block can be removed.

RECOMMENDATION

Delegate to PERMIT

Overall, this application requires a finely balanced decision. However, for the reasons set out in this report, it is recommended that Committee Authorises the Development Manager to grant full planning permission, subject to conditions and the securing of the £10,000 contribution through a legal agreement.

CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 Plans showing parking areas (providing for 20 vehicles) shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. This area shall be surfaced in accordance with details, which shall first have been submitted to and approved in writing by the Local Planning Authority, and constructed to the satisfaction of the Local Planning Authority before the buildings are occupied and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

3 Prior to the occupation of the development a revised Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the Travel Plan.

Reason: In the interests of sustainable development.

4 Within 6 months of the first occupation of the development, a review of the Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the reviewed Travel Plan.

Reason: In the interests of sustainable development.

5 Prior to the occupation of the development, details of the provision for 20 cycles within the site shall be submitted to and approved in writing by the Local Planning Authority and those cycle parking spaces shall be installed. The cycle parking spaces shall then be maintained as such thereafter.

Reason: In the interests of sustainable development.

6 Prior to the occupation of the development, an operational statement shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the management of the vehicular and pedestrian accesses and the parking within the site. The site shall then be managed in accordance with the approved statement.

Reason: To ensure the safe operation of the highway.

7 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management. Construction shall then only take place in accordance with the approved Management Plan.

Reason: To ensure the safe operation of the highway.

8 All works and subsequent operational activities must comply with the recommendations and proposed ecological mitigation measures set out in the submitted Ecological Appraisal Land Use Consultants January 2012 V4.0, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard ecological features and protected species at the site

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

- a) Details for protection of badgers and their setts, including updated checks on sett locations; details of any necessary exclusion zones around setts; and any further necessary mitigation and licence application
- b) All outstanding bat mitigation details. These details can be provided in the form of an EPS licence application method statement if appropriate.
- c) Details of enhancement measures for the benefit of reptiles and amphibians
- d) Details of additional habitat provision and enhancement, and long term management specifications for the benefit of wildlife. These details can be incorporated within landscape and planting plans if appropriate.

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development, unless any different timing is specifically agreed as part of the approved Scheme.

Reason: to safeguard and provide long term for ecological features and protected species at the site

10 No development shall take place until a Detailed Arboricultural Method Statement, with revised Tree Protection Plan, has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The final method statement shall incorporate details of the type and number of machines and plant to be used on site and the location of site compound, temporary services and movement of people and machinery. Development shall then only take place in accordance with the approved Statement and Protection Plan.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals

11 No development activity shall commence until the site preparation protective measures as stated in the approved Detailed Arboricultural Method Statement are implemented. Thereafter, the protective measures shall be maintained in strict accordance with the approved Detailed Arboricultural Method Statement. The local planning authority is to be advised two weeks prior to the site preparation stage of the development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

12 No 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 details so approved.

Reason: In the interests of the appearance of the development and the character and appearance of this part of the Conservation Area.

13 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

REASONS FOR GRANTING APPROVAL

1. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance and Documents. This is in accordance with the policies set out below at A.

2. All other material considerations, including the views of third parties, have been considered and they do not outweigh the reasons for approving the proposed development.

A

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE POLICIES ADOPTED FOR OCTOBER 2007

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

Policies D.2 and D.4 of the adopted Local Plan are saved policies.

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF came into immediate effect on the 27th March 2012 however confirms that existing Local Plan Policies will remain extant for a period of 12 months. Due consideration has been given to the NPPF however it does not raise any issues that conflict with the existing Local Plan policies.

Item No: 02
Application No: 12/00278/LBA
Site Location: Cranwell House, Weston Park East, Upper Weston, Bath



Ward: Weston **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor C V Barrett Councillor M J H Lees
Application Type: Listed Building Consent (Alts/exts)
Proposal: Erection of a building adjacent to listed building following demolition of classroom units and outbuildings and refurbishment and alterations to listed building with associated landscape and engineering works including new retaining wall.
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,
Applicant: Girl's Day School Trust
Expiry Date: 5th April 2012
Case Officer: Varian Tye

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: Planning application 12/00277/Full, which refers to proposals for the site at Cranwell House, Weston has been requested to go to Committee by The Chairman of The Planning Committee due to highway concerns. It is appropriate that the related listed building application should be considered at the same time.

DESCRIPTION OF SITE AND APPLICATION: Cranwell House is a Grade II listed building and it is located to the North West side of Bath, in the Weston Area of the City.

The statutory list description of the property refers to it being built for the Unitarian Minister Jerom Murch, former Mayor of Bath. Its design exhibited at the Royal Academy in 1850, was probably inspired by that of Widcombe Manor, built in 1727. Murch being a keen gardener, and a member of the Parks Committee responsible for the creation of Victoria Park, also built the palm house overlooking a garden with a fountain, two loges, including a small park at Cranwell House.

Jerom Murch we are told in the supporting ' Building and Archaeological Report', submitted with the application, has also been described as the, "Prince of landscape gardeners." He was on seven occasions the Mayor. Philanthropist and fund raiser serving on numerous social, educational, and reforming Committees. He also presided over what has been described as a great age of Victorian Civic improvement in the City.

As a result of his service to Bath and the community he was given a knighthood by Queen Victoria. Furthermore he was also given the honorary title of Bath's, "Man of the Century " and it is understood his portrait still hangs in the Guildhall.

After Murch's death in 1895 the estate was bought by Saxon Campbell, a wealthy colliery owner, who embellished the interior of the property. In 1909 Cranwells was bought by Alfred Pitman, the son of Site Isaac Pitmen who invented shorthand. Alfred and his brother were directors of The Pitman Press in Bath, on the Lower Bristol Road, founded by Isaac. In 1952 Cranwell House was bought by Edward Greenland, a tobacconist and confectioner, who sold off the majority of the parkland for development. In 1961 the Bath Corporation placed a Compulsory Purchase Order on the mansion to accommodate Cranwells Art Secondary School, later in the 1970's it became Summerfield School. The walled garden, glass house, and stable block were demolished and the majority of the park had by now been built over with a new housing estate. The remaining parkland became the schools ground, with further school buildings introduced in the later 20th century.

The school was purchased by the Girls Day School Trust (GDST) from Bath and North East Somerset Council in 2008 in order to provide new premises for Bath's Royal High Junior School.

The property is described in the statutory list as a mansion built in 1850 to a design by Wilson and Fuller. A description is given to its external appearance which includes the former palm house and conservatory which spring eastward from the north western corner, and subsidiary features such as the balustrade terrace, two-tiered pedestal

fountain in circular pool (now used as flower bed), ice house in the rear wall of the courtyard to the north of the building.

To the south - west of Cranwells, along Weston Park East, reference is made to a standing pair of stone gate piers with small pediments to each face and attached walls topped with a balustrade, which mark the main entrance drive leading to Cranwells.

The interior of the former mansion is also noted as being of interest as it is richly decorated. It is described as mostly of mid-19th century date but also incorporating late - 19th century work. Interior features of note include the large reception hall, with marble floors and a coffered ceiling with elaborate plaster work. A large mid-19th century Imperial stone stair, with scrolled mahogany handrail and cast iron balusters, set under a full height barrel vaulted coffered ceiling leads off from the hall.

The mid-19th century garden and park laid out on a hillside with mature tree belts and a number of specimen trees and a small lake are also noted in the description.

The present listed building application does not refer to works to the former lodge to Cranwell, which lies adjacent to the main entrance to the School and is in separate ownership, it has a separate entry in the statutory list. It is noted as Grade II and marking the main entrance drive leading to Cranwells. It is described as a Neo -classical lodge, 1850 -52 by Wilson and Fuller, who designed Cranwells. Immediately to its north stands a pair of mid -19th century gate piers (listed Grade II).These give access to a drive that runs along the southern boundary of the parkland , laid out in the mid - 19th century and then leads in a northerly direction up to the former mansion.

The reasons given for designation Cranwells a listed building are:

1. It is an interesting example of a country house with a good quality historic design which embodies the rediscovery of Bath's early Georgian architecture by the mid – Victorians
2. It displays good quality architectural detailing and contains significance internal features and elaborate decorations, which have survived well.
3. Despite the loss of its stables (once located to the rear of the mansion) and the majority of its park it continues to be, together with its remaining parkland and associated structures, a good example of a small 19th century estate with local historic associations.

The parkland surrounding the historic house is not on the Register of Historic Park and Gardens published by English Heritage. However, it is noted in the statutory list above as of local interest, it is also identified in the H. E. R retained by the Council, and in the supporting Historic Landscape Appraisal provided by the applicant as of having high landscape and local historic importance. Despite the development of part of the former grounds of the parkland in the 20th century that section of the park which remains may be regarded as an undesignated heritage asset of local interest.

The site also lies within the Conservation Area and the World Heritage Site.

The description of works, taken from the listed building application form supplied by the applicant, refers to the erection of a building adjacent to a listed building (the new multi-purpose hall, kitchen, and classrooms to the north of the present school) demolition of classroom units, and outbuildings. Refurbishment and alterations to listed building with associated landscape and engineering works including a new retaining wall.

For clarification it should be noted that listed building consent is not required for the erection of the building adjacent to the Cranwell House as it is a freestanding building. Likewise listed building consent is not required for demolition of the free standing modern former school structures which date from post 1st July 1948. However, a Conservation Area application has recently been submitted for their demolition. Listed building consent is however required for the works to the listed structures on the site, for example the provision of natural slate on the former conservatory attached to Cranwell house, and interior works to the property such as the provision of new doors and internal partitions.

RELEVANT PLANNING HISTORY: There is a history of pre application enquiries which resulted from the purchase of the site by the applicant. This is explained in more detail in the supporting information provided by the applicant with the application.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

ENGLISH HERITAGE: Recommends that the application should be determined in accordance with national and local policy guidance, and on the basis of the Councils expert conservation advice

ECOLOGICAL OFFICER: Comprehensive ecological and protected species surveys (including bats) have been undertaken. Bat roosts are present in the main building, including roosts of the greater and lesser horseshoe bats.

Appropriate mitigation proposals have been submitted, and incorporated where appropriate into related plans such as landscape and planting, and external lighting.

An EPS licence is needed for works to the bicycle shed and area outside it.

The Local Planning Authority must therefore consider the three tests of the Habitats Regulation and the likelihood of a licence being granted by Natural England. I would consider that then 3rd test relating to favourable conservation status of the bats, will be met.

Provided mitigation is implemented, in addition to proposed new planting and creation and management of wildlife habitat, there should be no harm to ecology and protected species and there is scope of significant enhancement. Implementation of all mitigation measures and any outstanding details such as details of proposed management to create meadow areas can be secured by condition.

Any revision to the submitted lighting or planting plans, or details in the vicinity of the bat roosts should be accompanied by further ecological assessment

OTHER REPRESENTATIONS /THIRD PARTIES

BATH PRESERVATION TRUST: Supports both the listed building and planning application. In a general response to both applications they mention such points as:-

- The development would secure the use of the site for education and bring the building back into a beneficial use.
- They support the repairs and alterations to Cranwell House. The exterior alterations proposed are considered to enhance the character and features of the listed building.
- They support the proposed demolition of the unsightly modern buildings such as the existing art room and the creative approach to the new build.
- The trust welcomes the location, design and height of the new build.
- The use of natural slate as a cladding material for the new build is supported in this context. They believe the materials will harmonies with both the traditional palette of Cranwells House, and the landscape. The slate would have the necessary degree of subservience and would not compete or distract from the Bath stone and architectural detail of the main house. The natural slate should be appropriately selected.
- The Trust does not wish to comment on traffic, as they do not have the experience to properly assess this impact.

In conclusion, "Overall the Trust is satisfied that the form, size, scale, position and materials used would preserve and enhance the character and appearance of the Conservation Area in this specific location. The proposed development would achieve sustainable development, and secure the preservation and protection of the listed buildings features of special architectural and historic interest, setting and contribution to the local scene; and thus complies with the Planning (Listed Buildings and Conservation Areas Act) 1990, and policies within the BANES Local Plan and the NPPF."

BATH HERITAGE WATCHDOG: Strongly objects to the application in respect of the new build element but also makes comments on the works proposed to the listed building. It raises such points as:-

The history of the former mansion and its architectural and historic interest, and the importance of its setting/historic parkland is also noted. Although the listed building has been neglected over recent years this is no justification for undertaking in appropriate works.

Although supporting the aims and objectives of refurbishment, and pleased to see aspects of works which help restore the character of the building ,for example the removal of lowered ceilings and replacement of the asbestos roof covering on the conservatory with natural slate they have concerns relating to both internal and external works proposed to the property. For example works proposed to the basement, internal subdivisions of rooms

in some locations, the widening of the historic drive and materials used to do this, and lack of information regarding the works proposed in some areas.

New Build

The supporting information downplays the importance of the listed building, its setting, and historic parkland. Reference is made to PPS5 and the importance of considering the impact of new development on the setting of listed building and the need to ensure new buildings are carefully designed. They have no objections to the demolition of the modern buildings on the site or a contemporary design which is mindful of the setting of the listed building but that proposed is inappropriate.

The proposed footprint is too large; it is at least as big as Cranwells itself. The new build challenges the listed building and it is not subordinate.

The use of slate on roofs is a common characteristic on Georgian and Victorian buildings but not on walls. This is at odds with local vernacular and has no place in a World Heritage Site. They insist that natural Bath stone ashlar is used and question the architect's reasons for using the material and opposition to the use of natural Bath stone.

The use of slate will create a dark and sinister structure far from being lost against the back drop it will jar and dominate and draw the eye away from the protected building. The overall design of the building is boxy and awkward. It is not a high quality design.

The use of composite windows is not favoured, the fenestration haphazard, and not a feature of local vernacular.

Timber cladding is also used for parts of the building which is also inappropriate. They also question the sustainability of such a material which will require regular maintenance.

In conclusion, "The works by virtue of the misuse of materials, use of inappropriate materials, a design which is over scaled, bulky, dominant is considered to be wholly detrimental to the listed building, its setting and the Conservation Area contrary to S16 and S72 of the Planning (Listed Buildings and Conservation Area Act) 1990, PPS5: Planning for the Historic Environment, and Local Plan Policies BH1, BH2 and BH6 and should be refused."

LOCAL RESIDENTS: 15 objections have been received from local residents. All raise objections regarding traffic because of the adverse highway implications of proposals. Some also include objections about the adverse impact of construction works on neighbours, and one objector raises the Localism Act 2011 and the importance of taking into account and involving the local community in the decision making process. The inappropriate nature of the new build proposed for the site is also raised by two objectors. The new build has little if any sympathy with the existing listed building and it would be much preferable to have a more durable, traditional and sympathetic design. The preponderance of dark materials is poor aesthetics. 2 local residents (neighbours) note they were not informed by letter of the listed building application however, it is not a statutory requirement to notify neighbours by letter of a listed building application.

POLICIES/LEGISLATION

The primary legislation is the duty placed on the Council under S16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building its setting or any features of special architectural or historic interest it possesses.

There is also a duty placed on the Council under S72 to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

Section 12 'Conserving and enhancing the historic environment' of the National Planning Policy Framework sets out governments high – level policies concerning heritage and sustainable development. The Historic Environment Practice Guide provides more detailed advice with regard to alterations to listed buildings, development, in Conservation Areas and World Heritage Sites. Section 14 'Requiring good design' of the above document also notes that the government attaches great importance to the design of the built environment.

English Heritage Guidance, 'The Setting Of Heritage Assets' is also appropriate.

If the Council is minded to grant consent there is not a requirement to notify the Secretary of State before a decision is made.

Species such as Bats are protected under UK and European Legislation. The proposals have the potential to affect these species.

Policy NE: 10 National Protected Species and Habitats and Policy NE:12 Natural Features of The Bath and North East Somerset Local Plan including minerals and waste policies adopted in October 2007 are appropriate.

OFFICER ASSESSMENT

The following assessment relates to works which are subject to the listed building consent application and in this respect highway objections are not a material consideration. An assessment of the highway implications of proposals, together with an assessment of the merits of the free standing new building immediately to the north of Cranwell House, and its impact on such factors as the setting of the listed building is addressed in the related planning application which is reported elsewhere in this agenda.

Historic building/structures

The works to the listed building and modern structures on the site have been supported in a range of documents provided by the applicant. These include a Building and Archaeological Report, a Heritage Impact Statement, Historic Landscape Appraisal, Planning and Ecological Statement, Landscape and Transport and Travel Plan Assessment. A comprehensive set of drawings have also been provided with the application including sections through the building which are helpful in the assessment of the works proposed.

The proposals for Cranwell House include such works as the replacement of inappropriate asbestos roofing on the conservatory with natural slate, cleaning stonework and external

repairs to historic fabric, new external windows and a new entrance at the rear of the building, with an external lift, to allow for disabled access. The retention of the basement to the former conservatory/ vine house as a bat roost is also proposed with an external bat entrance /exit route at the rear of the building.

Internally proposals involve such works as new toilet facilities, alterations to existing room layouts, removal of modern partitions and lowered ceilings, new door openings and doors, repairs to the fabric of the building and restorations of historic features.

It is also intended to remove a rear stone boundary rear wall to allow for the construction of the new hall, kitchen and classrooms. Once removed a new retaining wall is to be constructed. As originally submitted it was intended that the new retaining wall would be constructed as a concrete gravity (crib) wall.

Revised proposals have recently been submitted. They are not whole scale revisions but help to clarify detail or are amendments as a result of on-going discussions with officers.

The revisions include such works as amendments to the retaining wall noted above. The revised proposals include for rebuilding sections of the wall, which are more open to view within the courtyard, with an outer skin of natural limestone rubble salvaged from the existing wall which is to be taken down. In the areas where the wall is not so visible, further back into the site and behind the new build, the wall will have a rendered finish. A hand rail is also proposed on the top of the coping to the wall to meet safety requirements.

The basement vaults are no longer propose dry –lining for the most part, but it may still be required in those areas where data storage is required, and instead the paint will be carefully cleaned from the stone walls/vault ceilings to an agreed method so that the stone work in the vaults will be open to view.

It is proposed to reinstate a fireplace in one of the finer rooms on the ground floor where it has been unfortunately removed in the past.

The applicant has also confirmed their long term intention to repair and restore the listed fountain, which is in poor condition, with the water pumps. Together with restoring the historic path down to it from Cranwell House.

Further information/amendments also include works to the entrance into the building from the rear courtyard, alterations to the existing gate at the main entrance, and information on the new gates to be installed at the northern entrance to Cranwell House.

At the main entrance the existing timber gate, are to be replaced with electrically operated metal gates. A justification for the works has been included with the revised drawings. The details of the gates for both entrances have only recently been submitted and although officers have no objection to their installation in principle there appearance and detail requires further consideration, together with the proposed location /detail of the key pad system to be used at the main entrance, and agreement. It is also intended to undertake repairs to the existing stone balustrade which leads off from the stone gate piers and these works are in principle welcomed.

Although having concerns about some aspects of the scheme such as the subdivision of the rear room on the ground floor to provide for a First Aid room and disabled WC the overall heritage benefits of the proposals outweigh any harm caused. An example of a most welcomed heritage benefit, which the applicant was encouraged to incorporate into proposals, is the restoration based on historic evidence, of the line of an original wall and former recessed openings in the entrance hall which lies opposite the impressive staircase on the ground floor. These works in particular will help restore some of the original grandeur to this very significant part of the listed building.

The removal of the modern partition wall, inserted in the upper hall landing, to restore it its original proportions is another heritage benefit which is particularly welcomed, as are proposals to remove the existing toilet facilities in a historic room with particular attractive cornice detail on the ground floor.

It has also been encouraging to note that as a result of pre application discussions past proposals for internal works to the property, which in the opinion of the Conservation Officer required further consideration, have also been amended.

The concerns of interested parties are noted. However, these do not justify a refusal of listed building consent. Furthermore concerns over lack of detail regarding some aspects of the works proposed can be covered by appropriately worded conditions.

The works proposed result from the need for the building to continue for educational use. An educational use which from a historic building view would appear a viable and appropriate use bearing in mind the educational opportunity also afforded by the historic building and the attractive historic grounds.

Officer assessment on the new build element of the scheme, as noted previously, is given in the related planning application found elsewhere on this agenda. Although reservations are expressed about some aspects of the scheme the proposals provide the opportunity to secure a viable use of a listed building and there are also heritage benefits associated with the wider scheme.

Ecological assessment

An EPS licence is needed for works to the bicycle shed and area outside it and therefore the Authority must consider the 3 tests of the Habitats Regulations, and the likelihood of a licence being granted by Natural England.

Appropriate mitigation proposals for bats have been included within the submitted plans, including details of external lighting, dark corridors, additional planting, and retention of access points to roost areas. These measures will need to be implemented, and can be secured as part of the consent by conditions where appropriate.

In respect of the Habitats Regulations and the 'three tests': the applicant has submitted arguments for how they consider the three tests have been met. The Council ecologist agrees with the analysis of the 'favourable conservation' test and considers that this test will be met. Consideration of the other two tests must form part of the planning analysis, however the ecologist has confirmed that she has no particular concerns to raise about

the ability of this proposal to meet the requirements of these tests and has stated that she would consider it likely that an EPS licence would be granted.

In terms of the three tests these confirm that; 1) there has to be an overriding public interest in the development; 2) there is no suitable alternative, and; 3) the favourable conservation status is preserved (previously mentioned).

In consideration of these test, firstly, the provision of education and preservation and enhancement of a vacant listed building are considered to be in the public interest, secondly, whilst it is accepted that the school currently operates on a different site, in terms of this site, there is no suitable alternative to the proposed works without compromising the ability to continue education and compromising the works to improve the listed building. Certainly if the site were to be used for an alternating purpose (housing, hotel etc.) the impact on the protected species would be more invasive. Finally, as has been confirmed by the Council ecologist and mentioned by Natural England, it is considered that the proposed mitigation and level of works will maintain the favourable conservation status of the bats.

In regard of the three tests it is considered that all of these are satisfied and that works are therefore acceptable in respect of the level of protection given to European Protected Species.

CONCLUSION

There are works which may be argued to cause harm to the special architectural and historic interest of the listed building such as the subdivision of the room on the ground floor to create a First Aid room and Disabled WC. However, these are not regarded as causing substantial harm and the works are outweighed by the overall heritage benefits associated with the scheme. For example the retention of the building in an appropriate use, the repairs to be undertaken to Cranwell House, restoration of historic features within the building, enhancements to the external appearance of the property, and the wider benefits associated with the future management of the historic parkland, which has been identified as a heritage asset, and which the continued use of the site for a school should bring. On balance the works to the listed structures on the site are considered to be acceptable subject to appropriate conditions.

The listed building consent works proposed would also not detract from the character of the Conservation Area or the World Heritage Site.

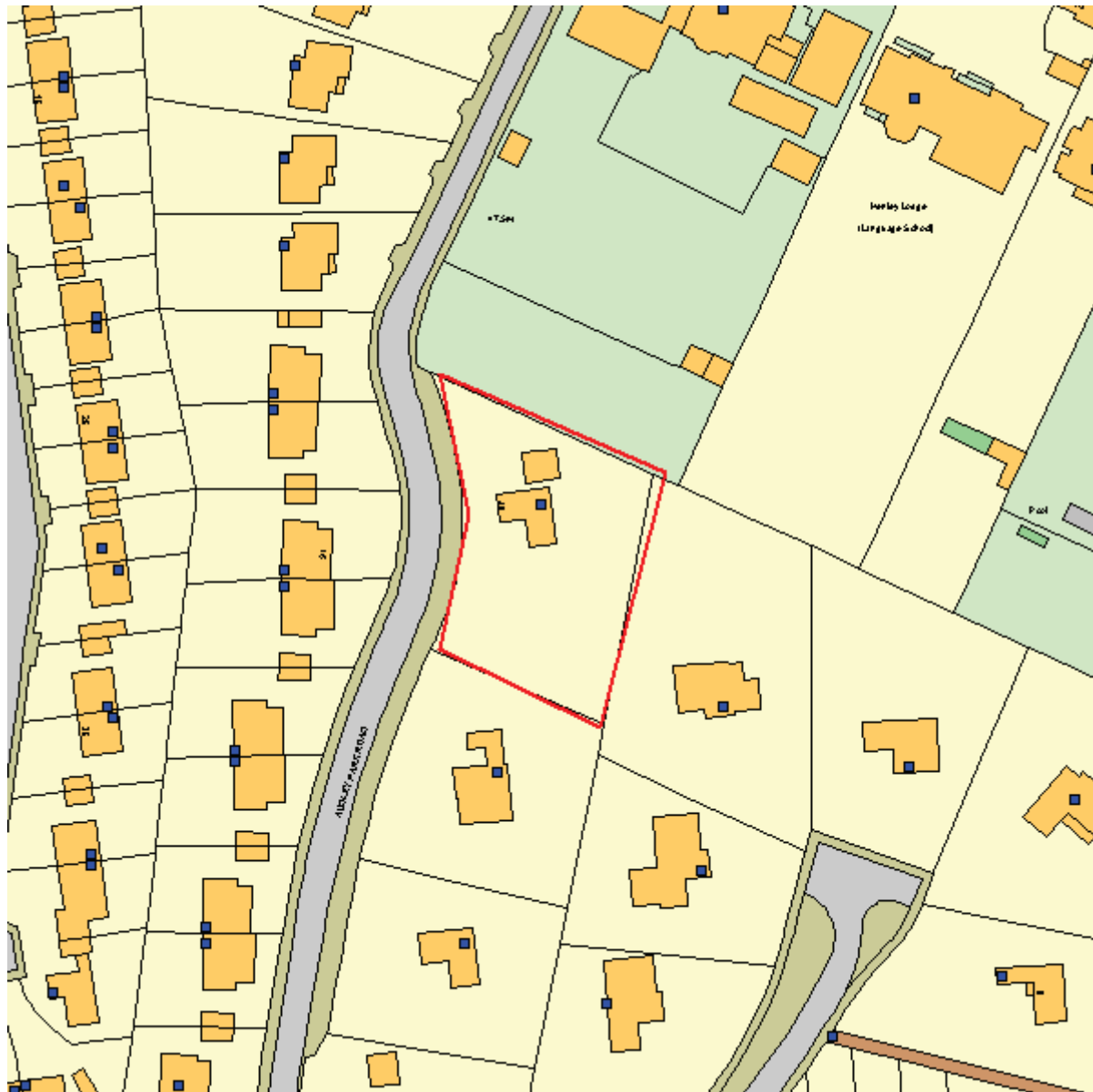
Ecology issues are also acceptable subject to appropriate conditions.

RECOMMENDATION

DELEGATE TO CONSENT

Authorise the Development Manager to CONSENT with appropriate conditions

Item No: 03
Application No: 12/00488/FUL
Site Location: 40 Audley Park Road, Lower Weston, Bath, Bath And North East Somerset



Ward: Kingsmead **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Douglas Nicol Councillor A J Furse
Application Type: Full Application
Proposal: Erection of balcony, rendering of garage and utility and alterations to two storey side extension (Retrospective).
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Dr Stephen Hill
Expiry Date: 18th April 2012
Case Officer: Rebecca Roberts

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: A local ward member made a request for this application to be considered by Committee but did not provide reasons. The Chair of the Development Control Committee is a former colleague of the objector and for this reason would like the application to come to DC Committee.

DESCRIPTION OF SITE AND APPLICATION: The application site is situated to the West of the City Centre within the Conservation Area and World Heritage Site. The site relates to a detached two storey dwelling within a residential street which is characterised by a mix of housing types and styles grouped together in a linear format, surrounded by expansive gardens. The sloping nature of this locality means that the dwellings are elevated from the roadside and are set into the slope, with access to rear amenity space provided by stepped access. The site is well screened by mature shrubs and trees which create a natural green enclosure.

The application proposes to regularise works to the extension and alteration of the property. In 2010 application 10/04074/FUL was permitted for alterations and extensions to the dwelling which involved a side extension and garage extension in addition to window alterations and the introduction of timber cladding. The development was not built in accordance with the plans, a new balcony was erected on the rear elevation, in addition to further window alterations to full height openings at first floor level, the rendering of the extensions and the use of lean to style rooflights to the garage rather than windows lying flat with the roof. A new application was request to regularise the works.

The alterations to the windows to create full height glazed openings can be achieved under Permitted Development and would not require a planning application. The master bedroom window and landing windows have been altered to full height clear glazed windows, the landing being non-opening.

The rear balcony is located on the rear elevation to the south east corner of the dwelling off the master bedroom and is approximately 2.5 metres wide and 0.85 metres deep, the railings enclosing the balcony are 1.2 metres which cuts across the centre of the windows and overlooks the rear garden which is of a raised height due to the local topography.

The 10/04074/FUL application permitted the use of re-constructed stone to match that of the existing property, however after further deliberation the applicant opted to use render and after researching other applications within Bath chose a K-rend in a sterling white colour which is widely used within Bath as it is considered close to the natural Bath stone Ashlar colour and has been used as a finish on dwellings and extensions to re-constructed stone and Bath stone Ashlar properties within Bath.

RELEVANT PLANNING HISTORY:

10/04074/FUL - Permitted - 20.12.2010 - Internal and external alterations to dwelling to include moving front door to north side of building and erection of a porch, first floor extension over porch, garage following demolition of existing garage, utility room between house and garage, cedar greenhouse on the south facing wall of house, replace hung tiles below windows with cedar shiplap, provision of external chimney on south facing wall, landscape garden and create patio areas on the east and west side of the living room.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS - no comment.

BATH PRESERVATION TRUST - Comment. The Trust considers that the design outlined in this application is appropriate to this 20th century house, and does not wish to comment in detail upon the design. However, we do express our regret that this application has been lodged retrospectively and furthermore that it has been submitted without even a brief design and access statement. This is poor practice and should not be encouraged among even minor applications.

OTHER REPRESENTATIONS - 1x support and 1x objection.

Objection - Balcony and opening doors overlook garden and have destroyed the privacy that was once enjoyed and this is further aggravated by the large windows on bedroom two and results in a loss of amenity. The use of render on the extensions which are easily visible from the highway and the public realm does not conform to the local plan policies for development within the Conservation Area and World Heritage Site. The skylights on the garage roof are elevated structures and highly intrusive when viewed from the objectors garden.

Support - impressed by the work completed at 40 Audley Park Road, both compliments and adds to the character of the area. The use of materials which appear to have been selected on the basis of quality and longevity is a refreshing contrast to the ubiquitous use of poor quality plastics on other projects. The property has been improved significantly by the work and has transformed a fairly mundane mock stone house in to a property of considerable architectural merit. This is in no small part due to the external treatment of the extension which has been rendered to an exceptionally high standard and, in the opinion of the supporter, actually looks better than the original house.

POLICIES/LEGISLATION

LOCAL PLAN POLICY:

At the meeting of the Council on the 18th October 2007, the Bath and North East Somerset Local Plan (including minerals and waste policies) was adopted. The following policies are material considerations

D2 - General Design and public realm considerations

D4 - Townscape considerations

BH1 - Impact of development on World Heritage Site of Bath or its setting

BH6 - Development within or affecting Conservation Areas

of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

SUBMISSION CORE STRATEGY

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

B4 - The World heritage Site and its setting (will replace BH.1)

D.2, D.4 and BH.6 of the local plan are proposed as saved policies within the submission core strategy.

National Planning Policy Framework (March 2012) can be awarded significant weight however this proposes little change to the aspects of local policy that are relevant to this decision.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT: The extension of the property and use of timber cladding have already been granted under the 2010 application and were considered acceptable additions to the dwelling. It is some of the details that were previously approved that have been altered and require regularisation. However it must be noted that the alterations to the two upper floor windows to full height clear glazed units can be constructed under the parameters of Permitted Development and as such there is no control on the number or size of windows that could be created within the rear elevation.

CHARACTER, APPEARANCE AND SITE LAYOUT: The use of render for the finished material of the extensions to the property which include the two storey mono-pitch side extension and the new garage which extends from the side of the dwelling is considered acceptable. The recently published NPPF relates to high quality design and it is considered that the use of K-render enhances this 1960s property and demonstrates the evolution of its development and its ability to adapt to change without detriment to the surrounding locality. The materials integrate with the varied building styles and age characteristic of the location and are considered to preserve the character and appearance of this part of the Conservation Area and setting of the World Heritage Site and is not considered to erode the overall harmony of the streetscene.

The alteration of the garage/utility roof skylights/velux windows from flat to lean to design, results in the openings protruding above the flat roof by approx. 300mm and the frame has been clad in timber to match the dwelling and to visually soften the structures. Two of the skylights/velux windows are tilted towards the side boundary and look up at a mature tree lined boundary, the other opening is set back on the flat roof in the corner between the side elevation and the rear of the side extension to provide light into the utility space. These structures are not considered intrusive and have been positioned and designed so as to cause minimal distribution.

RESIDENTIAL AMENITY: Concern has been raised with regards to loss of privacy due to the position of the balcony and the enlargement of the windows at first floor level. The garden to the rear of the site for 6 Badminton Gardens runs parallel with the garden of the application site and are separated by mature shrubs and trees and a one metre high fence is visible between the existing planting. The dwelling of No.6 Badminton Gardens is set away at an acute angle. Due to the distance from the property and the existing boundary treatment there is not considered to be any loss of privacy or overlooking of the dwelling of no. 6 Badminton Gardens. The concerns relate to the amenity space and the overlooking of the garden, particularly the main outside seating area situated at the rear of the adjoining garden.

The altered glazing to full height and the introduction of a balcony has the potential to result in an increased sense of overlooking, however due to the existing boundary treatment there are only limited openings whereby the neighbouring garden is visible from the 1st floor windows and balcony. The openings are in the same position as the previous windows and there is considered to be no greater overlooking as a result of the altered

window openings and the balcony. The balcony is small in scale and would only be able to accommodate two small chairs and could not be used for entertaining. The seating area of no.6 Badminton Gardens is not visible as a tree interrupts the sightline. The seating area is only visible when you move to the rear of the garage area and make your way up onto the raised garden area, however this is possible due only to the removal of a fence panel. The previous amenity level experienced is not considered to be exacerbated by the introduction of the balcony or window alterations.

CONCLUSION:

Overall, the proposed window design, balcony and use of render are considered to respect the integrity of the dwelling and surrounding environment; which preserves the local distinctiveness of this part of the Conservation Area and World Heritage Site.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed in the east and south elevations at any time unless a further planning permission has been granted.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

PLANS LIST: This decision relates to drawing's titled site location plan, approved plan view, approved front elevation, approved south elevation, accepted rear elevation, accepted north elevation, proposed front elevation, proposed rear elevation, proposed south elevation date stamped 31st January 2012 and the proposed north elevation and proposed plan view date stamped 22nd February 2012.

REASONS FOR GRANTING APPROVAL

1. The proposed development is considered acceptable in terms of design, size, scale, siting and use of materials. The proposed would preserve the existing built environment without detriment to the character and appearance of the streetscene and this part of the Conservation Area and setting of the World Heritage Site.

The proposed development is not considered to cause significant harm in terms of an overbearing presence, loss of privacy or overlooking to the detriment of neighbouring occupiers.

2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A.

At the meeting of the Council on the 18th October 2007, the Bath and North East Somerset Local Plan (including minerals and waste policies) was adopted. The following policies are material considerations

D2 - General Design and public realm considerations

D4 - Townscape considerations

BH1 - Impact of development on World Heritage Site of Bath or its setting

BH6 - Development within or affecting Conservation Areas

of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

B4 - The World heritage Site and its setting (will replace BH.1)

D.2, D.4 and BH.6 of the local plan are proposed as saved policies within the submission core strategy.

National Planning Policy Framework (March 2012) can be awarded significant weight however this proposes little change to the aspects of local policy that are relevant to this decision.

Item No: 04
Application No: 12/00980/FUL
Site Location: Summerfield School Lime Grove Site, Lime Grove Gardens, Bathwick, Bath



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Nicholas Coombes Councillor David Martin
Application Type: Full Application
Proposal: Erection of 13no. dwellings with associated parking and landscaping following demolition of existing school buildings (Resubmission).
Constraints: Agric Land Class 3b,4,5, Article 4, British Waterways, Conservation Area, Flood Zone 2, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Bloor Homes
Expiry Date: 19th June 2012
Case Officer: Suzanne D'Arcy

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE:

Cllr Tim Ball has requested the application be considered by the Development Control Committee as this has been a controversial application in the light of the reduction of the site below 0.5 hectares taking away the need for affordable housing. Cllr Curran has agreed to this request.

DESCRIPTION OF THE SITE AND PROPOSAL:

Lime Grove School is sited within the Bath Conservation Area and wider World Heritage Site. The site is currently occupied by a redundant school and consent has been granted to demolish this under Conservation Area Consent ref: 11/02929/CA.

The site is an irregular shape, which is located at the end of Lime Grove Gardens. The western boundary of the site is adjacent to the railway line which is set up from the site. There is a bank with vegetation and trees between the site boundary and the railway. The site slope upwards from west to east and there are allotments set on higher ground adjacent to the eastern boundary. Beyond this, on higher ground again, is the Kennet and Avon Canal. There is a public footpath that leads from Pulteney Road to the canal towpath running adjacent to the southern boundary.

The site is located within Flood Zones 1 and 2.

Lime Grove Gardens consists of terraced and semidetached properties, constructed of reconstructed Bath Stone. The properties are set back from the road, with the front boundaries marked by low stone walls.

This is a revised application for the erection of 13 dwellings, with associated parking and landscaping, following the demolition of the existing school. The site area is 0.49 hectares.

The proposed scheme will have 11 four bedroom dwellings and 2 two bedroom flats. The proposed four bedroom dwellings will be arranged as 2 pairs of semi-detached properties, adjacent to the site entrance, with the further pair at the northern end of the site and a terrace of 5 dwellings that runs in a north south direction. One of the flats will be sited towards the south west corner of the site, adjacent to the footpath and the second will be sited to the north of the terrace.

Plots 1 to 4 and 6 to 10 are 2 and a half storey dwellings, which will have rooms in the roof. Plots 12 and 13 are 3 storey dwellings, with garages underneath. Due to the contours of the land, these properties will be cut into the bank. Plots 5 and 11 are flats over the garage and these are two storey properties. There will be a single storey garage block between plots 4 and 6. These will be allocated for the dwellings, plots 1 to 11 will have two parking spaces, with plots 12 and 13 having 3 spaces each, including garage spaces. There will be 3 visitor spaces, resulting in a total of 31 spaces on the site.

The proposed dwellings will be constructed of bath stone ashlar walls with slate roofs.

This application is a revised submission of a previously refused scheme (11/02928/FUL). This application sought permission for 18 dwellings and was refused as due to the

constraints of the site and the layout, design, scale and materials at the dwellings proposed would fail to respond to the local context and represent overdevelopment of the site, which was harmful to this part of the Conservation Area. The submitted Sequential Test failed to provide evidence of alternative sites. There were adverse impacts identified previously on both existing and future occupiers, due to loss of privacy and unsatisfactory living conditions due to overshadowing from existing trees. The proposal also resulted in the loss of 13 trees, which fundamentally altered the character of the site and lead to a loss of natural habitat.

This application reduces the proposed number of dwellings by 5 to 13, and reduces the site area to 0.49 hectares. The previous application had 13 market dwellings and 5 affordable housing units.

RELEVANT HISTORY:

11/02929/CA - Demolition of existing school buildings - Consent granted 15th September 2011

11/02928/FUL - Erection of 18no. dwellings with associated parking and landscaping following demolition of existing school buildings - Refused 19th October 2011

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

BUILDING CONTROL: No comments

HIGHWAYS: No objection to the proposal, subject to conditions, and raise the following points:

- The Transport Statement states the site access road is proposed of a 4.8m width with a 1.8m wide footway on the west side, although this conflicts with the Planning Layout drawing which indicates a footway of 2m.
- The layout would incorporate a turning head of appropriate dimensions to accommodate refuse and service vehicles
- The Transport Statement refers to a traffic survey of the former school use which indicated the school generated 172 daily trips.
- The TRICS data for the proposed development suggests it would generate 69 trips and as such, no strategic highways contribution is required
- The first 55m extending from the end of Lime Grove Gardens into the site will be constructed to an adoptable standard and a private driveway extending beyond to serve as a private access for 4 dwellings
- Majority of the garages are less than the recommended dimension of 3m wide and 6m long, which would provide adequate room for parking with some storage and this could reduce its effectiveness for private parking
- Visitor parking should be interspersed throughout the development
- The residents would not necessarily be entitled to parking permits and this has been addressed in the Transport Statement
- On-site parking for residents and visitors is not ideal but as the surrounding residential roads are controlled by Residents Permits, you may consider that this would not result in any adverse impact on on-street parking.

- The existing turning area can barely address the turning needs of cars and does not adequately address the servicing needs of the existing dwellings, and would not be acceptable to cater for the additional development.
- The proposed new access road and the turning head will need to be the subject of a Section 38 Agreement to secure the future adoption but there will also be a requirement for the area of constructed road at the end of the existing Lime Grove Gardens, to be dedicated through a Section 228 procedure under the Highways Act.
- There will need to be some alterations to secure a smooth kerb alignment between the existing and proposed access.
- Public transport is easily accessible from the site
- Pedestrian and cycle links are available to the proposed residents in the vicinity of the site.
- The proposal includes provision for the cycle storage for each dwelling
- Some improvements would be necessary and appropriate for the footpath link between Pulteney Road and the canal towpath (Public Footpath AQ33). This requirement has been accepted by the applicants and is included within the draft Heads of Terms for a s106.
- Access for construction vehicles may affect the parking on Lime Grove Gardens and it may be necessary for a temporary suspension of parking on part of the road to allow for access by some construction or delivery vehicles.
- Construction Method Statement has been submitted with the application but does not address the list set out in the Transport Statement, and these should be included.
- It is advisable for the applicants to discuss the parking and traffic management issues with relevant officers of the Council.
- The new adoptable access road will need to be kept free of parked vehicles and it would seem necessary and appropriate to require the developers to fund an appropriate Traffic Regulation Order to impose parking restrictions on the new road.
- This will need to be secured as part of a legal agreement to deal with the adoption of the extended access road.
- A financial contribution of £18,000 would be required towards improvements to pedestrian facilities in the vicinity of the site.

HIGHWAYS DRAINAGE: We concur with the contents of the letter from the Environment Agency dated 28.03.12

ECOLOGY: No objection, subject to conditions, and raise the following points:

- The retention of the badger sett in situ is welcomed
- The planting should be amended to include native species
- Clarification of the treatment of the grassland to the south east
- All recommendations in the ecological report should be implemented and secured by condition

HISTORIC ENVIRONMENT: No objection to the proposal, and raise the following points:

- It is acknowledged that this is a difficult site to arrive at a suitable layout, hence a preference for a low density scheme.
- The previous proposal seemed to have a fragmented layout and a lack of cohesion.
- The current proposals seem to represent a step in the right direction.
- The lower density will facilitate the retention of important features, such as the best trees and a badger sett.
- Cars and traffic are likely to be less dominant
- The layout should be more legible and the use of traditional buildings form and materials should bring the development into closer harmony with its wider setting.
- On this basis, I have no objections from the point of view of the Conservation Area.

ARCHAEOLOGY: No objections

PARKS: No comments

LANDSCAPE ARCHITECT: No objection to the proposal, subject to conditions and raise the following points:

- Improvement on the original submission
- Disappointing there is an overemphasis on parking, turning and access road on a site that is located so close to the city centre
- Reducing the emphasis on the car would have led to an opportunity to develop a more comprehensive landscape scheme that could have significantly added to its setting within the World Heritage Site.
- As it stands, this is a mundane landscape scheme that deals with the space leftover from the development.
- Conditions will need to deal with all aspects of the hard and soft landscape treatment for the whole site, including the site entrance and that piece of land between the rumble strip and the actual site boundary.
- Landscape proposals also need to look carefully at the management of the public realm/communal spaces to the east of the site as this is clearly visible within the view from the elevated canal.

URBAN DESIGN: No objection to the proposal, and raise the following points:

- These observations will review this scheme from a starting point of previous assessment.
- Key issue will be the impact the development has on the conservation area and how it fits within this sensitive location
- Whilst this is a relatively discrete site, it is in a sensitive part of the conservation area.
- Development will form part of the foreground to long views across the city from the canal.
- Development of the highest standard of form and architecture will be required.
- The current derelict condition harms the conservation area.
- Amount of development is not harmful.
- The broad location of the development is in an acceptable location on the site.

- The balance between the development, landscape and land dedicated to accommodating 31 parking spaces and manoeuvring is poor.
- Location is capable of accommodation of greater unit numbers with lower parking levels.
- Distribution of the height is less well considered.
- The 3 storey villa to the north east is on elevated ground and has the potential to increase the visual impact of the building and harm the setting of the conservation area and World Heritage Site from views from the canal.
- There is potential for a full 3 storeys along the lower proposed terraced frontage.
- The distribution of height should be reviewed to respond better to topography and harness the lower areas and reduce visual impact.
- The "coach houses" (unit D2) and unit A1 provide a poor aspect to the pedestrian route to North Parade,
- Whilst overlooking of rear gardens has been addressed, the secluded nature of the route is heightened by the lack of ground floor surveillance caused by the form of development and lack of access into the site.
- The retained hedge adds to this issue and is of marginal urban design merit.
- The development positions private rear gardens along the railway embankments (requiring vehicle space to be positioned to the more visible and valuable canal frontage).
- This heightens the harmful impact of space for vehicles and demonstrates a poor response to the recognised noise and overshadowing impact of the railway.
- The mix of terraced, semi-detached, FOG and villa reduces the unified townscape quality of the development, fragmenting it into a finer grain than the neighbouring conservation area character.
- The DAS draws attention to the varied forms of housing within the locality.
- The Georgian style architecture is applied to contemporary units without sufficient attention to proportion and detailing.
- This creates the potential for harm to the setting of the conservation area and World Heritage Site from important canal side views.
- The palette of materials is appropriate in principle.
- Greater priority should be given to optimising housing capacity and landscape setting.
- Disappointing to see such a significant level of parking at the expense of urban form and housing capacity.
- The proximity to the city centre and connectivity to walking, cycling and public transport have not been harnessed.
- The proposal has addressed overdevelopment within the previous refused case.
- The urban design is lacking in a responsive approach failing to address constraints and harness potential to the full.
- High level of parking erodes landscape quality and fails to harness the sustainable location of the site to deliver a low density solution on an urban brownfield site.
- Not likely to harm amenity of neighbouring residents.
- Its relatively secluded location will limit its visual impact.

ARBORICULTURE: No objection, subject to conditions, raise the following points:

- The submission indicates that previous arboricultural comments have been accommodated as far as practical.

- The most important trees on the site, the two limes, sycamore and field maple, have been retained.
- The internal layout and windows serving plots 6 to 11 should minimise future shading issues, relating to the sycamore and field maple, and reduce the impact of the trees along the embankment.
- Future shading of garden areas from the off-site trees along the railway embankment, particularly in the afternoons during the summer, is inevitable but not sufficient reason to recommend refusal.
- The Arboricultural Method Statement is comprehensive and the contents are supported.

ENVIRONMENTAL PROTECTION: No objection, subject to condition

CHILDREN'S SERVICES: Contributions of £68,357.20 would be sought for school places and youth provision.

HOUSING: Offers the following comments;

- Disappointed that the scheme is just below the affordable housing thresholds
- They are unable to offer further comments in light of this

CLLR TIM BALL: Requests the application is considered by the Development Control Committee as this has been a controversial application in the light of the reduction of the site below 0.5 hectares taking away the need for affordable housing.

AVON AND SOMERSET FIRE: No comments

AVON AND SOMERSET POLICE: No comments

ENGLISH HERITAGE: No comments received at the time of writing. Any comments which are received will be reported in the update.

ENVIRONMENT AGENCY: If the Local Planning Authority considers that the Sequential test is passed, no objection subject to conditions.

WESSEX WATER: Offer the following comments:

- New water supply and waste water connections will be required from Wessex Water to serve this proposed development.
- Separate systems of drainage will be required to serve the proposed development.

BATH PRESERVATION TRUST: Object to the proposal and raise the following issues:

- The Trust welcome the principle of developing the site for residential development, which is an appropriate use and will contribute to Bath's immediate housing need.
- Do not object to the demolition of the existing building.
- Recognise the applicants' effort to revise the application to make improvements and to address issues and challenges which were raised in the previous application.
- Site layout is not radically different from the first proposal.

- There is a suburban cul-de-sac feel and the grain remains fractured and inconsistent.
- Remain unconvinced that the 3 storey building provides a focal point, as the architecture is considered to be uninteresting and detached from the rest of the scheme.
- The site would benefit from a greater sense of intimacy.
- Reduction in the number of units has allowed greater flexibility to deliver a well design site, though the site now feels dominated by vehicles and parking provision.
- This creates a fractured grain to the south of the site.
- Parking provision is considered excessive and not conducive to sustainable living patterns.
- Applicant has taken efforts to introduce a more homogenous style to the buildings and architecture and seeks to reflect classical architectural styles and principles.
- No objection to this in principle but remind the applicant that a high level of design quality and commitment to using high quality materials is required to achieve this with any success.
- There is nothing to delineate the boundary between one house and another.
- The use of roof ridges would help to break up the terrace and introduce a sense of rhythm, which would be appropriate.
- Width of the roof is also a concern.
- Mansard style roofs are not alien to Bath and neither are terrace with a deep dwelling footprint, though typically the roof is expressed as an m-shape rather than as one solid mass, which creates interest and articulation.
- These proposed dwellings stretch across the entire depth of the terrace, giving them an unusual and uncharacteristic bulky appearance more akin to a Dutch barn.
- Consider the palette of materials to be an improvement, which is more coherent in itself and reflective of the Bath vernacular.
- Would insist that natural Bath stone and natural slate is used in the development.
- Would welcome further details about the proposed materials, such as the fenestrations and shared surface area.
- Consider the proposed development fails to respond to the local context, achieve sustainable development and would neither preserve nor enhance the character of the Conservation Area and may be detrimental to the adjacent listed terraces.

REPRESENTATIONS: 1 letter of objection received, raising the following points;

- No objection to development on the site per se
- Concern over the impact of construction traffic on retaining walls in Lime Grove Gardens
- Concern over impact of construction on residents parking
- Parking restrictions only apply 8am to 6pm Monday to Saturday, so future residents could park on Lime Grove Gardens

5 letters of comment received, raising the following points;

- Would like to see the area to the east of the site redeveloped as a play area
- No objection to the new proposal
- Grateful this application seeks to assure continuity of the crown of trees
- Would expect upgrading of the adjacent footpath
- Any introduction of solar panels or velux rooflights must guarantee non reflective glazing to avoid problems elsewhere

- Revised proposal offers the opportunity for site management of local parking during construction
- New development on this site should be restricted to two storey
- It is expected that the larger trees around the site will be retained
- Could residents parking restrictions be extended into the evenings?

POLICIES/LEGISLATION

National Planning Policy Framework (2012)

Draft Revised Regional Spatial Strategy for the South West (incorporating the proposed changes) - July 2008

SD1 The Ecological Footprint

SD3: The Environment and Natural Resources

Development Policy A: Development at Strategically Significant Cities and Towns (SSCTs)

Development Policy E: High Quality Design

HMA1: West of England HMA

HD1: Sub-Regional Distribution of Housing 2006-2026

RTS3: Parking

H1: Housing Affordability

H2: Housing Densities

H3: Mix of Housing

ENV1: Protecting and Enhancing the Region's Natural and Historic Environment

ENV5: Historic Environment

Joint Replacement Structure Plan - adopted September 2002

Policy 1

Policy 2

Policy 6

Policy 18

Policy 19

Policy 24

Policy 33

Policy 34

Policy 35

Policy 47

Policy 59

Bath and North East Somerset Council Local Plan (including Minerals and Waste Policies) 2007

IMP.1: Planning obligations

D.2: General design and public realm considerations

D.4: Townscape considerations

BH.1: Impact of development on World Heritage Site of Bath or its setting.

BH.6: Development within or affecting Conservation Areas

BH.7: Demolition in Conservation Areas

HG.1: Meeting the District housing requirement

HG.4: Residential development in the urban areas and R.1 settlements

HG.7: Minimum residential density

HG.8: Affordable housing on allocated and large windfall sites
ES.12: Noise and vibration
NE.1: Landscape character
NE.4: Trees and woodland conservation
NE.10: Nationally important species and habitats
NE.14: Flood Risk
T.1: Overarching access policy
T.24: General development control and access policy
T.25: Transport assessments and travel plans
T.26: On-site parking and servicing provision
Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

DW1: District wide spatial strategy
B1: Bath spatial strategy
B4: The World Heritage Site and its setting
CP2: Sustainable construction
CP6: Environmental quality
CP9: Affordable housing
CP10: Housing mix

Planning Obligations Supplementary Planning Document - adopted July 2009

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT: The site is located within the urban area of Bath and as such, residential development is acceptable in principle subject to other material considerations under the terms of Policy HG.4

The application proposes 13 dwellings on a site of 0.49 hectares, which equates to a housing density of approx. 37 dwellings per hectare. The previous application was refused as it represented overdevelopment of the site, as although the site area was larger at 0.55 hectares, Officers considered the developable area of the site of the previous proposal, due to its topography to be 0.3 hectares, which resulted in a housing density of approx. 60 dwellings per hectare. The site itself has a number of physical constraints, namely its topography and other natural features e.g. trees. The application scheme is considered to better reflect the pattern of development of the surrounding dwellings, due to its lower density and siting of the dwellings within the site. In view of this, Officers consider that the amount of development on the site is acceptable and represents an efficient use of land.

The site is located within Flood Zones 1 and 2 and is accompanied by a Sequential Test. The technical guidance that accompanies the NPPF states that developer needs to provide evidence that there are no other reasonably available sites which could be considered suitable and appropriate for the development proposed to be located. Officers considered the previous scheme had failed the Sequential Test as it had failed to provide evidence of assessment of other sites that could be brought forward for housing development within Bath. The majority of the development of the site is within Flood Zone

1 but 1 dwelling (the Coach House Flat) is located within Flood Zone 2, and as such, the residential element is located at first floor level. It is also noted that the site is included with the Strategic Housing Land Availability Assessment (SHLAA). It is also acknowledged that much of central Bath is located within Flood Zones 2 and 3, and it is likely that some of these sites will have to be brought forward in order for the Council to meet its housing requirements. The applicants have stated that they have undertaken a review of other sites within the SHLAA and that there none currently available for development, though they do acknowledge that there are future sites (for example the MoD sites), which may become available in the future but at the current time, are not. Having considered the submitted Sequential Test, and on the basis of the location of the dwellings within the site and their relationship with Flood Zone 2, it is considered that the Sequential Test has been passed.

IMPACT ON THE CONSERVATION AREA: Conservation Area Consent has already been granted for the demolition of the existing building (11/02829/CA), as it was considered that it did not make a positive contribution and its loss was not resisted.

The site is enclosed within a leafy dell. It was formerly a market garden, then a small holding and more latterly used for education and the basic topography of the land has survived these uses. The previous proposal was not considered to respect the topography of the land, as it involved levelling parts of the site and having dwellings cut into the bank, and resulted in the loss of 13 important trees. The proposed scheme has removed the more harmfully sited dwellings, and is considered to better respect the topography of the site and the trees within it. The impact of the proposed development on the trees is discussed in more detail in a later section of this report.

The character of Lime Grove Gardens is that of two storey dwellings, which front onto the road and are set back from the back of pavement. The four dwellings adjacent to the entrance to the development are arranged as two pairs of semi-detached properties, which are set back from the back edge of the pavement and this is considered to better reflect the pattern of development in this part Conservation Area and lead to a smoother transition between the existing dwellings and the proposed development.

The overall layout of the development is considered to be more coherent than that which was proposed under the previous application. Once inside the development, there is a terrace of 5 dwellings, with a coach house, that are set on the back of pavement. It is considered that this is acceptable, as while the back edge of pavement location isn't characteristic of Lime Grove Gardens, the proposed terrace is sufficiently contained within the new development and has a good relationship with the adjacent semi-detached pair, to warrant this change in siting. There is a better relationship between the siting of the groups of dwellings, which results in a less fragmented appearance to the development than previously and overall is not considered harmful to the Conservation Area.

The surrounding context of the Conservation area exhibits buildings which are almost entirely Bath stone ashlar frontaged. The application proposes the use of Bath stone ashlar for the dwellings with natural slate roofs and this is considered appropriate and acceptable. Officers are satisfied that conditions can be imposed to ensure the materials proposed are acceptable in appearance.

The design itself appears to have some Georgian influences though the finer details are not entirely correct, such as window details. The result is that in part, the design appears confused. The coach house design is not one that is typical of the area and as such, it does not sit entirely comfortable with the surrounding dwellings. However, Lime Grove Gardens is not a Georgian development and has a more suburban appearance. As a result, the proposed development will not be viewed in the wider context of Georgian Bath. It should be further noted that the site has a relatively secluded location and will not be highly visible from wider viewpoints. On balance, Officers consider that the design will not cause harm to this part of the Conservation Area.

Overall, the proposed development represents a vast improvement on the previously refused scheme. The internal layout of the site is considered to be more coherent and the siting of semi-detached pairs of dwellings, that more closely reflect the properties in Lime Grove Gardens, is considered to represent a smoother transition between the existing and proposed development. The siting of the proposed dwellings will result in more of the topography and the important onsite trees being retained and this will help to maintain the appearance of the proposed development as a leafy dell. The use of high quality materials will reflect the palette of materials apparent in the surrounding Conservation Area. It is acknowledged that, in design terms, the proposal is not entirely comfortable in its surroundings but when weighed against the existing situation and positive aspects of the proposal as stated, it is considered that the proposed development will not be harmful to the character and appearance of this part of the Conservation Area it therefore complies with Local Plan Policies BH.6 and D.4 and the advice contained within the NPPF.

URBAN DESIGN: The removal of the dwellings set into the bank has resulted in a better relationship between the proposed open space and the adjacent allotments. This results in the slope continuing to be able to be read as a single entity.

The Urban Designer has raised concerns regarding the impact of the access road and the level of parking proposed by the development. It is acknowledged that in certain cases these spaces are to the front of the dwellings though it is considered that this reflects the character at Lime Grove Gardens rather than the proposed development appearing separate from the existing residential properties.

The site is relatively secluded due it being set down from both the railway line and the canal towpath, and whilst it will be visible from the towpath, its secluded nature will limit any visual harm it may have. It should also be noted that the existing derelict condition of the site is harmful to the Conservation Area and the surrounding area.

When considered in the round, it is considered that the proposed benefits of the development, as detailed above and further on in the report outweigh the concerns in relation to the siting of the access road and parking, and the development is therefore acceptable in urban design terms.

RESIDENTIAL AMENITY:

Impact on existing occupiers

The previous proposal was considered harmful to the amenity of 11 Lime Grove Gardens as there was overlooking from the first floor windows of the proposed dwellings into the rear gardens. These dwellings have been removed from the proposal. Plot 5 is sited adjacent to the footpath but is sited beyond the rear boundary of 11 Lime Grove Gardens. Two of the first floor windows will either be obscurely glazed as they are to a bathroom and landing and it is considered that the angle of overlooking from the proposed kitchen window will be too acute to result in a significant loss of privacy to the private amenity space of this dwelling. Plot 1 is approximately in line with the side of 11 Lime Grove Gardens and it is considered that there would be no significant loss of privacy to this property from this dwelling. No other neighbouring properties will be affected. It is therefore not considered that there will be any significant adverse impacts on residential amenity from this proposal.

Impact on future occupiers

The proposed dwellings have been resited to ensure there is a better relationship between the private amenity spaces and the trees that are being retained on site. It is not considered that there will be an adverse impact on residential amenity from the remaining trees onsite.

The applicants have submitted a noise assessment to accompany the application and this has identified the site as category B. The Environmental Health Officer considers that this is acceptable and that conditions can be imposed to mitigate against the effects of road and rail traffic noise. This is considered to be acceptable.

Officers are of the opinion that there will not be an unacceptable level of overlooking to the private amenity space of the proposed dwellings from the adjacent proposed dwellings due to the relationship between the properties.

LANDSCAPE AND TREES: As stated previously, the site currently has the appearance of a leafy dell. The four most important trees on site, the two Limes (ref: 3999 and 4000), sycamore (ref: 3996) and field maple (ref: 1361) have been retained. It is unlikely that there will be significant future pressure for these trees to be removed for amenity purposes due to their relationship with the proposed dwellings, due to their internal layout.

There may be some shading of the rear gardens of the dwellings that face towards the embankment. These trees are set back from the rear boundaries and due to this distance, it is unlikely that they will cause significant nuisance and in view of this, it is considered that a refusal on this basis could not be sustained at appeal.

Conditions can be imposed on the decision to ensure a suitable landscape scheme and appropriate tree protection is undertaken.

ECOLOGY: The application proposes leaving the grass bank undeveloped and this results in the badger sett being kept in situ. This could be retained as wildlife habitat. The Ecologist has raised concerns that no native planting has been proposed in the

development. As a condition is being imposed to require details of the landscape scheme prior to commencement of development, it is considered that native planting could be included as part of this submission.

In view of this, it is not considered that there would be a significant adverse impact on wildlife as a result of this proposal.

HIGHWAYS: The site is located adjacent to the city centre of Bath and there is easy access to both public transport and the city centre, so the site is considered to be a just location.

The application proposes 31 parking spaces, including garage spaces and visitor spaces. It is noted that the proposed garages fall slightly short of the dimensions that are considered sufficient to park a car and allow for some element of domestic storage. Based on the sustainable location of the site, this is considered to be acceptable. Concern has been raised in the representations about the potential for occupants of the new dwellings parking on Lime Grove Gardens. Lime Grove Gardens has restricted parking to permit holders and the applicants have been advised that future occupiers are unlikely to be eligible to apply for permits. This has been taken into account in the submitted Transport Statement and is therefore considered acceptable.

It is also considered appropriate that the developers fund an appropriate Traffic Regulation Order to impose parking restrictions on the new access road to ensure the adoptable element of the road remains free from parked vehicles. This would be included in a s106 Agreement and the applicants have agreed to this.

A contribution of £18,000 would be required for improvements to pedestrian facilities in the vicinity of the site.

Concern has been raised about the impact on existing occupiers of Lime Grove Gardens and their parking provision during the construction. A condition could be imposed on any permission to require the applicants to submit a Construction Management Plan to the Local Planning Authority prior to the commencement of development, and this would include details relating to contractor parking and any requirement for temporary suspension of parking. It is considered that this would mitigate residents' concerns and keep disruption to a minimum.

FLOOD RISK: The issues relating to the Sequential Test have been discussed previously in the report. Notwithstanding this, the Environment Agency does not object to the proposal as it is possible to mitigate the impact of Flood Risk with conditions.

HOUSING: Policy HG.8 of the Local Plan requires the provision of affordable housing on applications where permission is sought for more than 15 dwellings or if the site area is greater than 0.5 hectares. The previous application was refused as it was considered to be overdevelopment of the site. As a result, the application has been reduced to seek permission for 13 dwellings, which is below the affordable housing threshold. Officers are satisfied that this reduction in units is justified in the light of the previous refusal.

Following this, the current application was submitted, which reduced the site area to 0.49 hectares. Officers do not consider the site as proposed by this application to represent an

inefficient use of land nor is there a justifiable reason for refusal on the basis of reduction in site area. Section 38(6) of the Act states that development must be considered in accordance with the adopted Development Plan unless material considerations indicate otherwise. On this basis, Officers have to consider the scheme in the context of its adopted policies in the Local Plan. In view of this, whilst it is unfortunate that the scheme falls below the thresholds requiring the provision of affordable housing, it is not considered that the proposal conflicts with Policy HG.8 and therefore it is not considered that a reason for refusal could be sustained on these grounds.

OTHER ISSUES: There is pressure on primary school places in Bath, particularly across the north and central part of the city. The closest school to the development are either at capacity or projected to be at capacity within the next 3 years. There is a shortfall of youth provision in the local area. Contributions of £68,357.20 would be sought in order to ensure that adequate provision in the area can be made for the needs of this new development .

The applicants have submitted Draft Heads of Terms to form the basis of a Section 106 Agreement in relation to the above contributions.

CONCLUSION

This is a difficult site for development due to its topography and natural features, including mature trees. The proposed scheme represents a vast improvement on the previous refusal scheme as it responds much better to the site's constraints and the siting and amount of development forms a more coherent and legible layout, which relates better to the surrounding Conservation Area. The application proposes the use of high quality materials, which reflects the surrounding Conservation Area. The existing derelict condition of the site is considered harmful to the Conservation Area and when balanced against the proposed design and other benefits of the site, it is not considered to be harmful to the character and appearance of the Conservation Area this complies with Local Plan Policies D.4 and BH.6, and the guidance within the NPPF.

The submitted Sequential Test is considered to be passed and conditions can be used to mitigate against flood risk.

The siting of the dwellings, in relation to each other, the existing dwellings and the surrounding trees, will not result in any significant adverse impacts on neighbouring amenity.

This application seeks to retain the important onsite trees, which play an important part in defining the character of this part of the Conservation Area. The retention of these trees and their relationship with the proposed dwellings is unlikely to lead to future pressure for their removal and as such, the proposal is considered to comply with Local Plan Policies BH.6 and NE.4.

Whilst it is regrettable the scheme is below the thresholds to require the provision of affordable housing, the proposal is in accordance with the Council's adopted policies in relation to affordable housing, namely Policy HG.8.

The level of parking, its distribution and the road layout is considered acceptable and will not have an adverse impact on highway safety. Conditions could be imposed to mitigate against the impact on residents of Lime Grove during the construction.

RECOMMENDATION

Delegate to PERMIT

A Authorise the Planning and Environmental Law Manager to prepare a Section 106 Agreement to secure the following:

require contributions of £68,357.20 for school places and youth provision,
£18,000 for improvements to pedestrian facilities
and for the Developers to fund a Traffic Regulation Order to prevent parking on the new access road

CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 No 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 details so approved.

Reason: In the interests of the appearance of the development and the surrounding area.

3 No development shall commence until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

Reason: In the interests of the appearance of the development and the surrounding area.

4 Finished Floor Levels for the proposed development shall be set no lower than 21.86 m AOD.

Reason: To reduce the risk of flooding to the development and future occupants.

5 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 subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent an increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

6 Prior to the commencement of development approved by this planning permission (or such other date or stage in the development as may be first agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of controlled waters.

7 The proposed estate roads, footways, footpaths, verges, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

8 The garages hereby approved shall be retained for the garaging of private motor vehicles associated with the dwellings and ancillary domestic storage and for no other purpose without the prior written permission of the Local Planning Authority.

Reason: To retain adequate off-street parking provision.

9 The areas allocated for parking and turning on the submitted plan shall be laid out and kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

10 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11 Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Better publication, car share, car club information etc. The content of such packs shall have been first approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

12 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management and hours of working.

Reason: To ensure the safe operation of the highway.

13 No development shall be commenced until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and a planting specification to include species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development.

14 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained.

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

(i) Implementation of the submitted Precautionary Working Method and plans showing location of protective fencing and confirmation that this is in place before works begin; all necessary measures for the protection of bats, badger and nesting birds

(ii) implementation of all recommendations of the submitted ecological reports: Extended Phase 1 Habitat Survey and Daytime Bat Assessment and Survey Of Land Ecosulis April 2010; Phase 2 Ecological Surveys Ecosulis October 2010; Update Bat Surveys Ecosulis August & September 2011; Badger Mitigation Strategy Ecosulis January 2012; Mitigation Strategy Ecosulis January 2012.

(iii) Implementation of the submitted plan showing proposed bat and bird features (Ecosulis January 2012), including incorporation of bat bricks into buildings

(iv) Further incorporation of wildlife habitat and native planting into the landscape and planting scheme, to include management specifications for habitat areas

(v) Details of the proposed bat friendly lighting scheme, including details of any proposed new lighting to adjoining footpaths. These details must clearly demonstrate, using lux level contour plans if appropriate, that there will be no harm to bat foraging activity and commuting routes, and that habitats on site and on adjoining land, including the old railway line, will not be affected by light spill from the development.

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

Reason: To safeguard existing wildlife on the site

16 The development shall be constructed in accordance with the noise mitigation measures detailed in Section 7.0 of the submitted acoustic report.

Reason: To safeguard the amenity of future occupiers.

17 No development activity shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented. The local planning authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

18 No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless agreed in writing by the local planning authority.

Reason: To ensure that the approved method statement is complied with for the duration of the development.

19 No development shall take place, except for site clearance and levelling works, until final details of the building heights have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the area.

20 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST: This decision relates to drawings numbered BHS_91-101 Rev A, -A1, -A2, -B, -C-D1, -D2, -G1, NPA/10488 P 501 Rev G, and Topographical Survey, and related Planning Statement, Design and Access Statement and Heritage Statement, Sequential Test, Construction Method Statement, Arboricultural Method Statement, Extended Phase 1 Habitat Survey, Phase 2 Ecological Survey, Update Bat Surveys, Badger Mitigation Strategy, Mitigation Strategy, Precautionary Method Of Working, Environmental Noise Report Revision B, Landscape Report and Strategy, Transport Statement, Statement of Community Engagement, Archaeological Evaluation, Flood Risk Assessment and Desk Study and Ground Investigation, received by the Council on 2nd March 2012 and drawings numbered BHS_91-102 Rev A, _91-103 Rev A, _00-104 rev A, _91-105 Rev A, _91-106, _91-106.2, _91-108 A, _91-109 A, _91-110 A, _91-111 A, _91-112 A and _91-113 A, received by the Council on 20th March 2012.

REASONS FOR GRANTING APPROVAL

1. The proposed development would represent an improvement on the existing derelict condition of the site, which is harmful to the Conservation Area. The scale, massing, siting, appearance and amount of development is considered to be acceptable and appropriate on the site and will not have an adverse impact on the surrounding Conservation Area. The relationship between the existing dwellings and the proposed dwellings will not result in a significant adverse impact on residential amenity. The siting of the dwellings will not lead to significant pressure for the loss of trees which are important features of the Conservation Area. There is sufficient access and parking for the development so there will not be an adverse impact on highway safety. Conditions can be used to mitigate the impact of the construction. The Sequential test includes evidence of that other sites have been assessed and are not available so is considered to be passed. The badger sett will not be disturbed on site and conditions can mitigate against other potential impacts on wildlife.

2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A.

IMP.1, D.2, D.4, BH.1, BH.6, BH.7, HG.1, HG.4, HG.7, HG.8, ES.12, NE.1, NE.4m NE.10, NE.14, T.1, T.24, T.25, T.26 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

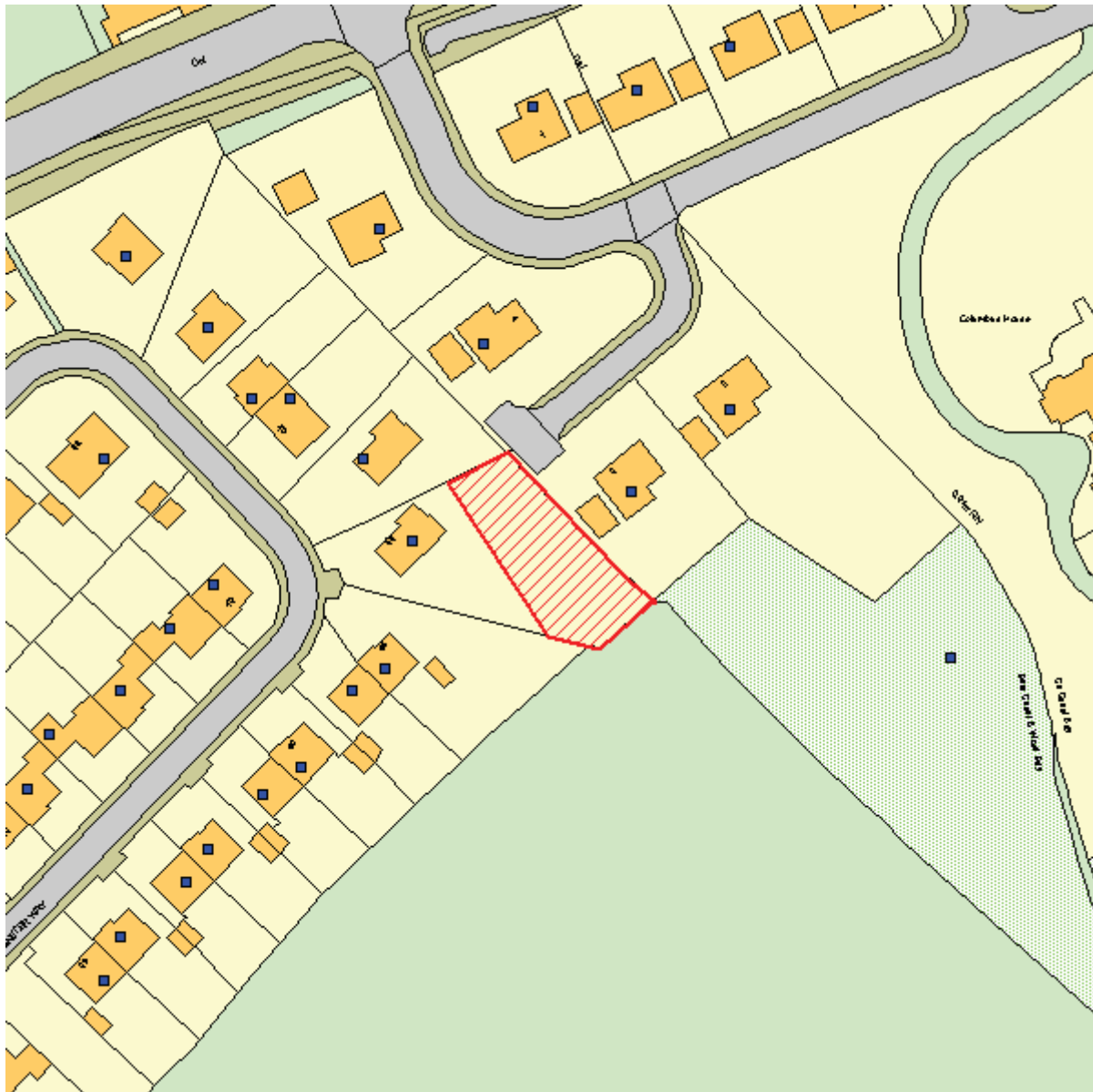
Planning Obligations Supplementary Planning Document - adopted July 2009

ADVICE NOTE:

Where a request is made to a Local Planning Authority for written confirmation of compliance with a condition or conditions attached to a planning permission or where a request to discharge conditions is submitted a fee shall be paid to that authority. Details of the fee can be found on the "what happens after permission" pages of the Council's Website. Please send your requests to the Registration Team, Planning Services, PO Box 5006, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at www.planningportal.gov.uk.

This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.

Item No: 05
Application No: 12/00292/FUL
Site Location: 53 Minster Way, Bathwick, Bath, Bath And North East Somerset



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Nicholas Coombes Councillor David Martin
Application Type: Full Application
Proposal: Erection of new detached dwelling in the grounds of the existing house and associated new vehicular access and hardstanding
Constraints: Agric Land Class 1,2,3a, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Mr Jon Avent
Expiry Date: 3rd April 2012
Case Officer: Alice Barnes

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being referred at the request of Councillor Nicholas Coombes for the following reasons:

A proposal for a smaller 2 bedroom house on the same site was refused by committee (and officer recommendation) in 2002. The reasons for refusal were detriment to the conservation area and harm to residential amenity.

The application has been referred to the Chairman of the Development Control Committee who has agreed that the application should be considered by the Development Control Committee as the development will result in a large house in a garden with a new access from a different road.

DESCRIPTION OF SITE AND APPLICATION

Minster Way is located on the north eastern edge of Bath. Number 53 is a large detached property located within the Conservation Area and World Heritage Site.

Number 53 occupies a corner plot running parallel to Trossachs Drive. The application relates to the provision of a new dwelling within the rear garden of the property. The property would be accessed from a new vehicular access from Trossachs Drive.

Trossachs Drive is characterised by large detached dwellings. The dwellings sit within open front gardens with little or no boundary treatments. The dwellings were permitted in the early 1970s. They have been constructed from reconstituted Bath Stone. The properties include central porches with a mock Georgian appearance.

The application site is located within the top corner of Minster Way which borders nearby Trossachs Drive. The proposed development will be accessed from Trossachs Drive. Therefore the character of the proposed plot would be closely linked to the character and appearance of Trossachs Drive.

RELEVANT PLANNING HISTORY

02/02284/FUL - Construction of new 2 bed detached residential property, refused 09/01/2003

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

BUILDING CONTROL: No comment

HIGHWAYS: The proposal to provide 2 off street parking spaces with an on-site turning facility to allow vehicles to enter and leave the site in a forward gear accords with current standards. The proposal complies with current standards, the existing and proposed dwellings served by the southern cul-de-sac of Trossachs Drive have parking provision that will either meet or exceed current standards and no highway objection is raised subject to the relevant conditions.

HIGHWAYS DRAINAGE: The applicant's proposal is within flood zone 1. The applicant has not provided any information about how surface water runoff from the redevelopment area will be disposed of. No surface water from the proposed site should discharge onto

the highway. The applicant should provide details of surface water disposal. We would encourage the use of SUDS systems for surface water discharge.

ENVIRONMENTAL PROTECTION: No comment

WESSEX WATER: All sewer connections for more than a single dwelling will require a signed adoption agreement. Separate systems of drainage will be required to serve the proposed development. No surface water systems would be connected to the foul sewer system. No building will be permitted within the statutory easement of 3m from a sewer.

COUNCILLOR NICHOLAS COOMBES: A proposal for a smaller 2 bedroom house on the same site was refused by committee (and officer recommendation) in 2002. The reasons for refusal were detriment to the conservation area and harm to residential amenity. The reasons are still considered to be relevant, although with a new Local Plan (2007, instead of 1997):

D2b - is not of high quality design

D2f - will cause harm to the amenities of residential properties by overlooking to the garden of number 53 and increased enclosure to the garden of 55

D4a - does not respond to local context in terms of appearance, siting, spacing and layout

GB2 - will be visually detrimental to the adjacent green belt

NE9 - may be of harm to the adjacent area of nature conservation - no consideration has been submitted

BH1 - is harmful to the world heritage site

BH6 - does not preserve or enhance the character and appearance of the area in terms of size, form, position

BH6i - does not retain existing street patterns, historic grain or building lines

BH6iv - does not retain the relationship of buildings to open space

T6 - does not have any provision for secure cycle parking

REPRESENTATIONS: Eight representations have been received objecting to the application for the following reasons:

- The Minster Way estate should not be used for a character analysis as the development is accessed from Trossachs Drive.
- The proposed dwelling is larger than the one previously refused.
- The development will result in a loss of privacy to nearby dwellings.
- The development is designed to accommodate a garden not intended for development.
- The site will become overcrowded.
- The dwelling will add three cars to the existing situation.
- The existing access gate to Minster Way is not in use.
- The proposed development will block views of the hillside from nearby dwellings.
- Building a house in Minster Way is a breach of the integrity of Trossachs Drive.
- Trossachs Drive has an open feeling of space.
- There will be a reduction in the size of the garden to number 53.
- The house would appear overbearing to nearby occupiers.
- The road is too narrow to accommodate more cars.
- Little has changed from the previous application.

- The proposed development could cause harm to highway safety.
- If the application is passed then mature trees should be planted to screen the house from view.
- The local school is already oversubscribed.
- Where will the construction traffic park?
- Trees should not be cut down.
- The development will change the appearance of the Bath skyline.
- This could set a precedent for further development
- The proposed two parking spaces is inadequate.

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

Bh.1: Impact of development on World Heritage Site of Bath or its setting.

Bh.6: Development within or affecting Conservation Areas

HG.4: Residential development in the urban areas and R.1 Settlements

T.24: General development control and access policy

Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

B4 - The World Heritage Site and its Setting

CP6 - Environmental Quality

National Policy

Since this application was registered the National Planning Policy Framework was adopted on the 27th March 2012.

OFFICER ASSESSMENT

The planning history for the property shows that permission was refused in 2003 for the erection of a dwelling. The proposed development has been altered from the previously refused application. The original application reflected the design of Minister Way rather than Trossachs Drive. The refused dwelling was sited adjacent to number 53 and close to number 51. This latest application proposes the resiting to be in line with number 6 Trossachs Drive and 55 Minster Way.

PRINCIPLE: The application site is located within the city of Bath therefore the principle of residential development is accepted. In this case policy HG.4 applies, which allows for residential development within the city of Bath.

DESIGN: The proposed dwelling has been positioned so that it continues the line of development from Minster Way to Trossachs Drive. Access to the dwelling will be from Trossachs Drive rather than Minster Way. Therefore the proposed dwelling has been designed to reflect the style of Trossachs Drive rather than Minister Way. The proposed dwelling would appear as a continuation of the existing dwellings on Trossachs Drive. The built form of the building is of a similar scale to number 6 and the detailing such as the porch has been included. The proposed dwelling would be constructed from reconstituted

Bath stone with timber frame windows to match the surrounding dwellings. Therefore the design of the proposed dwellinghouse is considered to respect and complement the surrounding area.

The proposed dwelling being of a similar scale and design to Trossachs Drive will complement the appearance of the existing streetscene. As the dwelling is located in line with the existing dwelling it is considered to respect the grain of development in the area. For the reasons outlined above it is considered to preserve the character of this part of the Conservation Area and the outstanding universal values of the World Heritage Site.

The previous application was designed to reflect the character of Minster Way rather than Trossachs Drive and therefore was not considered to retain the character of the existing streetscene. As stated above the proposed dwelling has been designed to reflect the character of Trossachs Drive and has been sited so as to appear as a continuation of the existing street.

HIGHWAYS: The applicant has proposed to provide two off street parking spaces within the site. This level of car parking is considered to accord with the standards set out within the local plan which are maximum standards. The highways officer has raised no objection to the application. The on-site turning facilities will allow vehicles to enter and leave the site within forward gear. The highways officer has requested that a number of conditions should be attached to any permission. This includes conditions to ensure that the driveway is covered in a bound and compact surface and that provision is made for the discharge of surface water.

Concern has been raised within the representation that provision has not been made for the provision of off street cycle parking. Policy T.6 sets out the standards for the provision of cycle parking. These standards state that one 'Sheffield' stand should be supplied for every 20 parking spaces. As the development would only result in one dwelling with two off street spaces this policy does not apply.

Concern has been raised over the parking of construction traffic. The application site is considered to be large enough to accommodate construction traffic on site. The highways officer has not raised an objection in this regard.

Concern has been raised that the road would be too narrow to accommodate more cars. The existing road measures 4.6m in width which is wide enough to allow two cars to pass and the highway officer has not raised an objection.

AMENITY: The side elevations of the proposed dwelling will face the side elevation and garage of number 6 Trossachs Drive to the east. To the west it will face the garden of number 53 and the side elevation of number 55 Minster Way. The only glazing proposed at first floor level at the side elevation is one obscure glazed window on the west elevation. Therefore the proposed dwelling will not overlook the neighbouring properties to the site. The front elevation will primarily overlook the front garden of the dwelling. It has been located 14m from the boundary of the nearby dwelling of number 51 Minster Way. As such it is not considered to harm the amenity of the occupiers of number 51. Whilst there may be some intervisibility between the proposed dwelling and No.53 this would be at an obscure angle and would not result in window to window overlooking.

At present there are mature trees which border the edge of the garden restricting the view to the neighbouring dwellings of 6 Trossachs Drive and 55 Minster Way. However the proposed dwelling has been located in line with the side elevations of number 55 Minster Way and number 6 Trossachs Drive. Therefore the proposed dwelling is not considered to appear overbearing to the dwellings of number 6 Trossachs Drive and 55 Minster Way.

Concern has been raised within a representation that the proposed dwelling will block the view from number 4 Trossachs Drive to the hillsides beyond. The dwelling is over 20m from number 4 and therefore would not appear overbearing to the occupiers of number 4. In any event current planning policy does not allow for the loss of a view to be given weight as a material consideration in determining a planning application.

GREEN BELT: The application site is located adjacent to the Green Belt boundary and the hillside which slopes upwards behind the site is located within the Green Belt. The proposed dwelling is located within the built up area of the streetscene and therefore will not harm the openness of the adjacent Green Belt.

OTHER MATTERS: Concern has been raised within a representation that the local school is oversubscribed. Under the planning obligations SPD there is no requirement for financial contributions towards a school place for a single dwelling in this location.

Since this application was registered the National Planning Policy Framework has been adopted. In this case the document does not conflict with the relevant policies within the local plan. The publication of the National Planning Policy Framework does not alter the above assessment of the application.

CONCLUSION

The principle of residential development is accepted and the development is considered to comply with the policies set out within the development plan and national planning policy framework.

The proposed development would not have an adverse impact upon the streetscene or the amenity of the surrounding residential occupiers. The siting of the proposed development will not harm the openness of the Green Belt. The proposed development has provided adequate off street parking and on site turning facilities. Therefore there will be no harm to highway safety. The proposed development will complement the design of the existing streetscene and therefore will reserve the character of this part of the Conservation Area.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 No 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 details so approved.

Reason: In the interests of the appearance of the development and the surrounding area.

3 The access hereby permitted shall not be used until the verge crossing has been constructed in accordance with the standard specification of the Highway Authority, and any highway furniture/statutory undertaker's plant located on the highway and within the limits of the access, has been relocated all to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety

4 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: in the interests of highway safety

5 The access, parking and turning area shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

6 The proposed window on the west elevation at first floor level shall be non-opening and glazed with obscure glass and permanently retained as such.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

7 No development shall commence until details of the proposed boundary treatments have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the development.

8 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST:

Site location plan
Proposed plans 01C
Proposed elevations 02C
Existing site plan and section 03
Proposed site plan and section and roof plan 04C
Existing elevations 100A

REASONS FOR GRANTING APPROVAL

1. The proposed development would not have an adverse impact upon the streetscene or the amenity of the surrounding residential occupiers. The siting of the proposed development will not harm the openness of the Green Belt. The proposed development has provided adequate of street parking and on site turning facilities. Therefore there will be no harm to highway safety. The proposed development will complement the design of the existing streetscene and therefore will preserve the character of this part of the Conservation Area and World Heritage Site.

2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A.

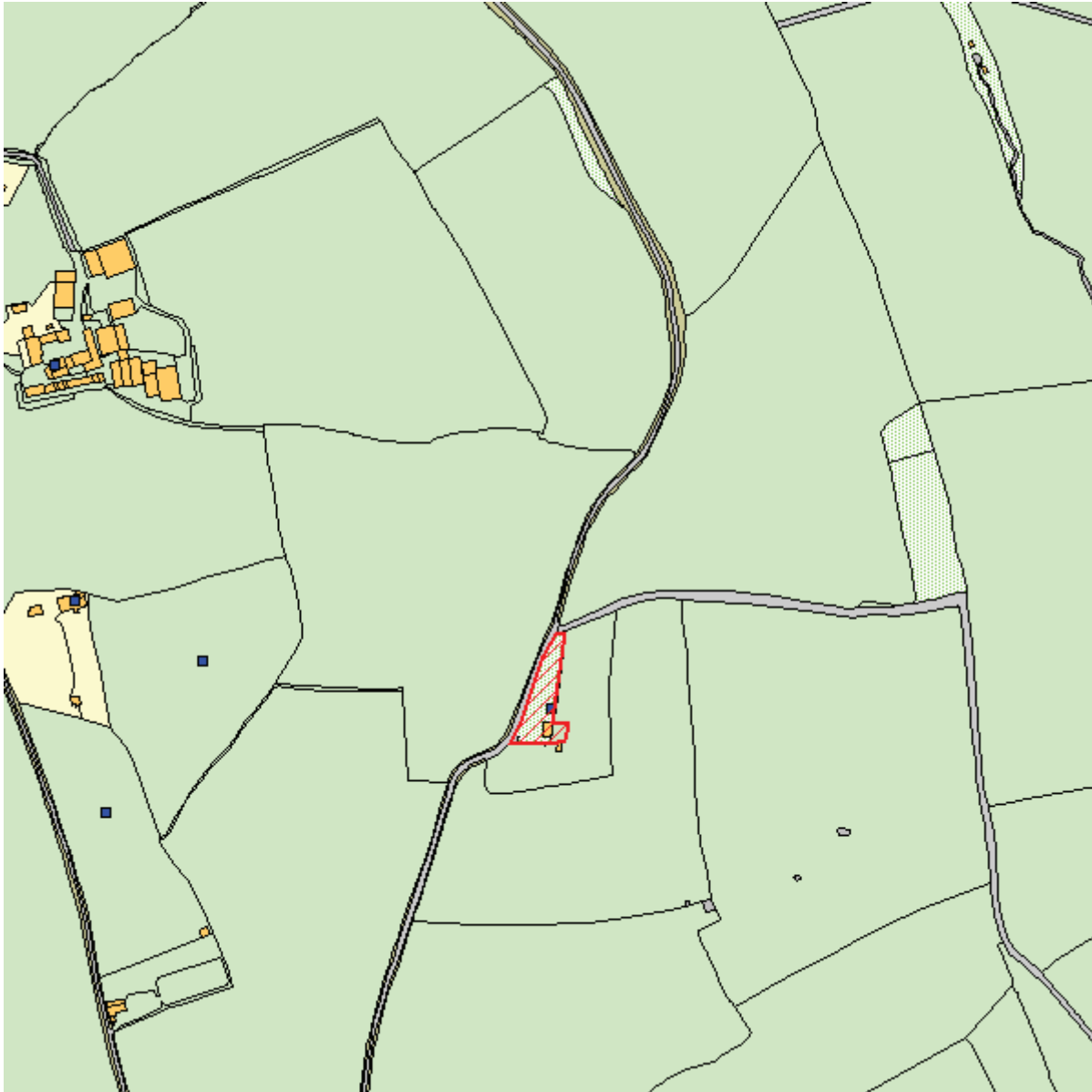
D2, D4, Bh.1, Bh.6, HG.4 and T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Informatives

1. All sewer connections for more than a single dwelling will require a signed adoption agreement. Separate systems of drainage will be required to serve the proposed development. No surface water systems would be connected to the foul sewer system. No building will be permitted within the statutory easement of 3m from a sewer.

2. It is recommended that the applicant contact the Highway Maintenance Team on 01225 394337 with regard to securing a Licence under section 184 of the Highways Act 1980 to form a vehicular crossing to the highway. The access shall not be brought into use until details of the access have been improved and implemented in accordance with the current specification.

Item No: 06
Application No: 11/05320/FUL
Site Location: Leaning Pines, Thrubwell Lane, Nempnett Thrubwell, Bristol



Ward: Chew Valley South **Parish:** Nempnett Thrubwell **LB Grade:** N/A
Ward Members: Councillor V L Pritchard
Application Type: Full Application
Proposal: Erection of a single storey dwelling following demolition of existing dwelling and associated outbuildings.
Constraints: Airport Safeguarding Zones, Agric Land Class 1,2,3a, Forest of Avon, Greenbelt, Water Source Areas,
Applicant: Miss V. K. Withers
Expiry Date: 13th March 2012
Case Officer: Victoria Griffin

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: This application is being referred to Committee due to the support from the Parish Council and following discussion with the Chairman of the Development Control Committee.

DESCRIPTION OF SITE AND APPLICATION:

The site is situated in a remote location approximately 2.3km north of Blagdon Lake off a single track access lane which is accessed from a driveway directly from the lane. The prevailing character of the area is of detached properties and farm buildings.

The existing property known as "Leaning Pines" is not visible from the road but is well screened by mature planting of approx. 4-5m high and a boundary breeze block and concrete entrance wall. The boundaries to the north, east and south are bordered by mature trees and planting. The site is accessed from a private driveway serving the property.

The existing dwelling is part concrete cladding and part timber cladding. Both the dwelling and boundary treatment are in a condition of deterioration although habitation is evident on site and it is understood that the previous owner of the site lived there for many years, but the property has been vacant for approximately four years.

This revised application seeks permission for the erection of a single storey dwelling following demolition of existing dwelling and associated outbuildings. In 2010 planning permission was obtained for a replacement dwelling on the site which has not been implemented and is an extant permission. This application now seeks to increase the size of the proposed replacement dwelling, principally by the introduction of a basement, following the demolition of the existing buildings and structures on the site. The proposal also seeks to extend the residential curtilage of the approved scheme.

The mature hedgerow that runs along the road frontage would be retained with new planting proposed in support of the application. A rubble stone wall and timber gate will replace the existing block walls to the front boundary.

The site falls within the Green Belt, a water source protection area and is located in open countryside. The application is supported by a Design & Access Statement, Flood Risk Statement and Sustainable Construction Checklist.

RELEVANT PLANNING HISTORY:

93552 - S.73 determination - Rebuilding or extension to an existing temporary bungalow - Refused 29/08/73

93552/A - Improvements and extension to an existing temporary bungalow - Refused 25/04/74, Appeal dismissed 06/03/75

8592/B - Construction of new bungalow and garage - Refused 26/10/82

Reason for refusal: The site is located in an area of Great Landscape Value forming part of the Green Belt and the proposal would not be in the interests of rural amenity or in

accordance with the policies of the District Planning Authority for the control of development in such areas

Appeal dismissed 28/09/83 - The Inspector concluded that the building was of a temporary nature and its replacement did not justify a permanent replacement at that time.

10/03814/FUL - The application relates to the erection of a two-bedroom bungalow with open car port to the side to replace an existing dwelling – Permission 18/11/10

It was accepted in the officer assessment of this proposal that whilst the planning history and the Inspector's decision over twenty years previous were material considerations, the dwelling remains in-situ and habitation was evident on site. The proposed replacement would reflect the existing pattern of development and would replace a dwelling that was in poor condition and was visually unsympathetic to its rural context. All sheds and outbuildings were to be removed within the site.

Permission was granted subject to a number of restrictive conditions including the removal of permitted development rights under Classes A-E of the Town & Country Planning (General Permitted Development) Order 1995, as amended. In addition a restrictive condition was imposed to ensure that an open verandah and car port were not enclosed.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

NEMPNETT THRUBWELL PARISH COUNCIL: Support, the Council were sympathetic to this proposal, wonderful how in tune it is with the environment and sustainability

HIGHWAYS OFFICER: The proposal is a revised design to that permitted under application 10/03814/FUL, for a replacement dwelling on the site.

The existing dwelling is a four-bedroom unit, but the replacement dwelling is proposed as a two-bedroom bungalow with an attached carport.

The access position is unchanged, but a new gate is proposed to be set back a minimum of 3.5m from the carriageway edge. The parking and turning area within the site is proposed of a gravel surface.

The access gate would not be set back a sufficient distance to enable a car to pull clear of the highway whilst gates are opened, and having regard to the narrowness of the lane, this could cause unnecessary inconvenience to other users of the lane. The gate should therefore be set back a minimum of 5m from the carriageway edge.

As the proposal is for a straight replacement of the existing dwelling, I would recommend that no highway objection is raised subject to the following conditions being attached to any permission granted:-

The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge on to the highway and to accord with the requirements of the Flood and Water Management Act 2010, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 5m from the carriageway edge. The area between the edge of the carriageway and the gates shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

HIGHWAYS DRAINAGE: The applicant's proposal is located outside of the flood zones. The applicant has indicated that surface water will be disposed of through the use of a rainwater harvesting system and soakaways. We approve of this approach. However infiltration testing should be carried out to BRE Digest 365 standards. If infiltration rates are found to be too low for a feasible soakaway design, an alternative drainage methodology should be proposed before use.

ENVIRONMENTAL PROTECTION: no observations.

ARBORICULTURAL OFFICER: Awaiting comments, however, it is anticipated that comments will be received in time to report to Members at the meeting of the Committee.

REPRESENTATIONS: Two letters of support from local residents raising the following issues (summarised):

- Re-use of site
- Sympathetic restoration
- Will enhance the local area
- Property occupied for most of 45 years I have lived locally
- In need of upgrade
- Provision of decent living conditions
- Good countryside management

POLICIES/LEGISLATION

BATH & NORTH EAST SOMERSET LOCAL PLAN: At the meeting of the Council on 18th October 2007, the Bath and North East Somerset Local Plan, including minerals and waste policies was adopted. The following policies are material considerations:

D.2 - Considers design issues and residential amenity (summarised) - the context of this policy relates to the impact of development on the public realm in terms of how they connect with existing development and how the layout of the built form, influenced by design, can impact upon the public realm. Part f) states that development will only be permitted if the proposed development will not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light, or increased overlooking, noise, smell, traffic or other disturbance.

D.4 - Considers townscape considerations (summarised) - which relate more to the visual aspects of development rather than the more functional public realm issues. This seeks to consider the wider context and immediate setting; pattern of streets, buildings and spaces in terms of form and structure considering scale, height and massing.

GB.1 - Control of development in the Green Belt (summarised) - permission will not be given except in very special circumstances, for development other than:

- The construction of new buildings for the following (summarised):
- agriculture or forestry
- essential facilities for outdoor sport and recreation for cemeteries and for other uses of lands which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it
- limited extensions, alterations or replacement of an existing dwelling provided it is in accordance with policies HG.14 and HG.15
- infilling in accordance with HG.6
- affordable housing to meet local needs in accordance with policy HG.9
- limited infilling or redevelopment of the major existing developed sites identified in GB.3
- The re-use of existing buildings in accordance with policy ET.9
- Other development and material changes of use of land which maintain the openness of the Green Belt and do not conflict with the purposes of including land in it
- Park and Ride development

GB.2 - Visual amenities of the Green Belt (summarised) – permission will not be granted for development within or visible from the Green Belt which would be visually detrimental to the Green Belt by reason of its siting, design or materials used for its construction

HG.14 - Replacement dwellings – Outside the scope of Policies HG.4 and 6 permission will only be given for:

- i) the rebuilding or replacement of existing dwellings, where the replacement or reconstructed dwelling and ancillary buildings would not be materially larger than, and would not have a materially greater impact on the countryside or openness of the Green Belt, than that to be replaced; and
- ii) the creation or extension of any residential curtilage would not detract from rural character nor conflict with the purposes of the Green Belt

T.24: General development control and access policy

T.26: On-site parking provision

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes.

The following policies should be considered:

CP6 - Environmental quality

CP8 - Green Belt

DW1- District-wide spatial Strategy

The National Planning Policy Framework (March 2012) has been considered and does not conflict with the above policies. Paragraph 214 states that for a period of 12 months decision-takers can continue to give full weight to relevant local plan policies adopted since 2004, even if there is a limited degree of conflict with the NPPF. The relevant policies within the NPPF and those of the adopted Local Plan are referred to below in this report.

OFFICER ASSESSMENT

THE POLICY POSITION:

GREEN BELT POLICY: The proposal seeks the replacement of an existing dwelling within the Green Belt. The relevant policy for new dwellings in the Green Belt is contained within Local Plan policy HG.14 which reflected the policies in PPG2. PPG.2 has now been replaced by the National Planning Policy Framework (NPPF). Paragraph 87-88 of the NPPF continues to reinforce the Green Belt policy position by stating that "as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. The NPPF also emphasises that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 89 states that local planning authorities should regard the construction of new buildings inside a Green Belt as inappropriate however exceptions to this include, the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This is in line with Local Plan policy HG.14. In this respect it is widely regarded that the general intention is that the new building should be similar in size to that which it replaces.

This revised proposal seeks to increase the volume of the replacement dwelling further and would introduce a materially larger dwelling to that which it replaces by adding the volume of the existing outbuildings to the volume of the replacement dwelling and the inclusion of a basement at lower ground level.

Applying both the National Planning Policy Framework and HG.14 it is clear that a replacement dwelling in the Green Belt need not be inappropriate in Green Belt policy terms but a replacement dwelling that is "materially larger" would be inappropriate development. The wording of the policy HG.14 equally applies to replacement dwellings in the countryside. Therefore a replacement dwelling is only appropriate in the Green Belt if the new dwelling is not materially larger than the dwelling it replaces.

The 2010 permission allowed for an increase in the size of the existing dwelling on site by an estimated 39% in volume. It was considered in that instance that the replacement

dwelling would not have a materially greater impact than the existing dwelling and the proposed replacement was considered to be visually more sympathetic to the rural area. The replacement dwelling was of a similar floor plan but with the addition of an open verandah and car port around the property. Furthermore, the increase in height of the replacement dwelling was considered to be more appropriate with a pitched roof profile instead of the existing flat roof design. Materials proposed also reflected the rural character of the existing site and the Green Belt with timber board cladding. Taken altogether it was considered that the increase in volume was justified subject to a number of restrictive conditions including the removal of permitted development rights and the verandah and car port to be retained as open sided structures.

The current application proposes a dwelling that is significantly different in design terms when compared to the approved scheme and includes a basement for the storage of plant associated with rainwater harvesting tanks and other renewable devices that are proposed. This is estimated to add a further 93m³ (2.5m x 6m x 6.2m) of volume to the existing dwelling.

Within Section 55 of the Town & Country Planning Act 1990 the definition of development includes building operations under land. In this context any proposal must be assessed against the guidance set out in the National Planning Policy Framework and the relevant Local Plan policies. Irrespective of the fact that subterranean development does not intrinsically harm the openness of the Green Belt it is still development. It is therefore necessary to consider the volume of the proposed basement in assessing whether a proposal is considered to be "materially larger" for the purposes of the green belt volume calculations.

Taking this all into account the proposed replacement dwelling on the site represents an increase of approximately 69% in volume when compared to the existing dwelling, excluding sheds. Within the application it is argued that the volume of the existing sheds should be taken into account and added to the volume of the replacement dwelling. This is not considered acceptable in this instance as the bulk and scale of the replacement dwelling would have a greater impact upon the openness of the Green Belt and is considered to be materially larger in terms of its overall proportions and scale. Therefore, the proposal should be considered as inappropriate as the replacement dwelling would have a materially greater impact on both the openness of the Green Belt and conflict with the purposes of including land within it. This proposal therefore fails to assist in safeguarding the countryside from encroachment. It is also considered that if the outbuildings are included within the calculation of the volume of the proposed dwelling there is a presumption that no new outbuildings could ever be constructed in association with this dwelling in order to maintain the openness of this part of the Green Belt. This would be unreasonable and reinforces the approach that only the volume/size of the existing dwelling should be compared with the proposed dwelling.

VERY SPECIAL CIRCUMSTANCES / OTHER MATERIAL CONSIDERATIONS: The agent has presented a set of circumstances related to this case that they consider would outweigh the harm identified. In addition it is contended that the proposal represents appropriate development in the Green Belt and a very special circumstances case is not required. Attention has been drawn to a 2009 Inspector's decision within the BANES area where the provision of a basement on an annex building was not considered to represent a materially larger replacement building. However, the current proposal also seeks to add

the additional volume of sheds within the curtilage of the site to the volume of the replacement dwelling which makes for a larger dwelling in terms of scale. Furthermore the inclusion of subterranean development whilst not visible would represent a material increase in volume of the original dwelling.

It is presented within the proposal that the use of the basement would not be for additional habitable accommodation but to 'house' plant and equipment for the storage of rainwater harvesting tanks, hot and cold water storage and a ground source heat pump that would otherwise be sited externally. In support of this it is argued that the replacement building can integrate a range of renewable energy measures within the development proposal and minimise its impact upon openness.

It is accepted that renewable energy proposals where required should be supported and that the development seeks to integrate this within the design but the proposal nonetheless would represent a further volume increase over what currently exists and that which has already been approved, and represents inappropriate development within the Green Belt. If the renewable energy proposals are considered essential it would be more appropriate to incorporate them into a smaller dwelling that would not conflict with Green Belt policy.

COUNTRYSIDE POLICY: Local Plan policy HG.14 allows for the replacement of dwellings in the countryside, including the Green Belt provided they are not materially larger than the dwelling they are to replace. As noted above, a replacement dwelling in the countryside may be acceptable where the replacement is of an existing dwelling and is not materially larger. Officers do not consider that the proposal complies with Policy HG.14, for the reasons set out above under Green Belt policy.

In this respect the additional harm caused by non-compliance with these policies must be weighed applying section 38(6) of the Planning and Compulsory Purchase Act 2004, and must be considered alongside the need to justify the development as inappropriate development in Green Belt terms. Section 38(6) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

It is not considered that the proposal presents any very special circumstances or other material considerations to outweigh the harm identified.

RESIDENTIAL AMENITY: The property is located in an isolated position with no immediate neighbours. In this respect the proposal is not considered to represent additional harm to residential amenity to warrant a reason for refusal on this basis.

OFFICER ASSESSMENT OF HIGHWAY SAFETY: The highways officer has raised no objection to the proposal subject to a number of conditions as it relates to an existing residential unit. Furthermore, the access to the site would remain with an improved parking and turning area within the site. The proposal does not therefore raise an objection on highway grounds.

OTHER MATTERS: The proposal seeks to retain the existing landscaped features of the site including the established hedgerow and trees. The applicant has suggested that

conditions are applied in support of the application to ensure an appropriate landscaping scheme is submitted by condition. Whilst this would be desirable it is not considered to render the replacement proposal acceptable.

CONCLUSION:

The replacement dwelling would represent a materially larger dwelling that should be considered as inappropriate development in the Green Belt. Accordingly, there is a presumption against the development unless the harm caused by reason of inappropriateness and any other harm is clearly outweighed by other considerations. The harm by way of inappropriateness should be given substantial weight. No very special circumstances have been presented that outweigh the harm identified.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed replacement dwelling, would be materially larger than the dwelling which it would replace and would represent inappropriate development within the Green Belt and would adversely affect openness. In the absence of very special circumstances the proposal is contrary to policy GB.1 and GB.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

PLANS LIST: The decision relates to the following documents: Location plan, Site photos dated December 2011, 1208.102B, 1208.501B, 1208.103B, 1208.104B, 1208.105B, 1208.106A, 1208.107A, 1208.201B, Flood Risk Statement, Water colour sketch, Sustainable Construction Checklist, Design and Access Statement.

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	9th May 2012
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
	AGENDA ITEM NUMBER
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES
WARD:	ALL
BACKGROUND PAPERS:	None
AN OPEN PUBLIC ITEM	

APPEALS LODGED

App. Ref: 11/04341/FUL
Location: Blue Gates Hursley Hill Publow Bristol
Proposal: Erection of 1no garden storage building following demolition of existing garden storage sheds (Resubmission)
Decision: REFUSE
Decision Date: 23 December 2011
Decision Level: Delegated
Appeal Lodged: 29 March 2012

App. Ref: 11/05173/FUL
Location: 717 Wellsway Bath BA2 2TZ
Proposal: Erection of a two storey side extension to replace existing carport and utility
Decision: REFUSE
Decision Date: 30 January 2012
Decision Level: Delegated
Appeal Lodged: 29 March 2012

App. Ref: 12/00331/FUL
Location: 19 Ivy Grove Southdown Bath BA2 1AP
Proposal: Installation of rear dormer and erection of first floor extension.
Decision: REFUSE
Decision Date: 14 March 2012
Decision Level: Delegated
Appeal Lodged: 29 March 2012

App. Ref: 11/04523/FUL
Location: 4 Duchy Road Clandown Radstock BA3 3DQ
Proposal: Erection of detached dwelling.
Decision: REFUSE
Decision Date: 20 December 2011
Decision Level: Delegated
Appeal Lodged: 10 April 2012

App. Ref: 11/04664/FUL
Location: 29 Lymore Gardens Twerton Bath BA2 1AQ
Proposal: Erection of rear dormer and loft conversion.
Decision: REFUSE
Decision Date: 12 January 2012
Decision Level: Delegated
Appeal Lodged: 10 April 2012

App. Ref: 11/03236/OUT
Location: Fields North Of Orchard Park Staunton Lane Whitchurch Bristol
Proposal: Residential development (up to 295 dwellings) including infrastructure, ancillary facilities, open space, allotments and landscaping. Construction of two new vehicular accesses from Stockwood Lane.
Decision: REFUSE
Decision Date: 13 October 2011
Decision Level: Delegated
Appeal Lodged: 16 April 2012

App. Ref: 11/02432/OUT
Location: Land Rear of Holly Farm Brookside Drive Farmborough Bath BA2 0AY
Proposal: Residential development comprising 38 dwellings with associated access, car parking and landscaping
Decision: REFUSE
Decision Date: 20 December 2011
Decision Level: Planning Committee
Appeal Lodged: 18 April 2012

App. Ref: 11/04391/FUL
Location: Land Between 85 And Squirrel's Tale London Road West Lower Swainswick Bath
Proposal: Erection of a new dwelling.
Decision: REFUSE
Decision Date: 23 December 2011
Decision Level: Delegated
Appeal Lodged: 18 April 2012

APPEAL DECISIONS

App. Ref: 11/02210/AR
Location: Land at junction of Mill Road & Frome Road, Radstock
Proposal: Advertisement sign
Decision: Refuse
Decision Date: 18 May 2011
Decision Level: Delegated
Appeal Decision: Dismissed

Summary: The Inspector acknowledged the reasonable need of the appellant to advertise for business purposes, the advertisement sign, by reason of its excessive size, scale, height and bulk, was considered to be unduly prominent and obtrusive in the street scene, particularly given the area's semi-rural character.

It was concluded that the advertisement would be detrimental to the character and appearance of the Radstock Conservation Area.

App. Ref: 11/02546/FUL and 11/02681/FUL
Location: 1 Hayes Place, Bear Flat, Bath BA2 4QE
Proposal: Change of use of the first floor from residential accommodation to office and removal of part wall and external staircase, and formation of a parking space
Decision: Refuse
Decision Date: 21 April 2011 and 18 May 2011
Decision Level: Delegated
Appeal Decision: Dismiss

Summary:

With regards to the loss of residential accommodation, the Inspector highlighted the lack of evidence to support the appellant's contention that relocation would be impossible and there are a number of empty office premises on the opposite side of the road which would seem perfectly capable of meeting the applicant's requirements. This self-contained first-floor residential accommodation occupies a highly sustainable location, with good access to public transport, local shops and services, and employment areas within the city.

Weighing all of the material considerations in the balance, I find that there are none sufficient to overcome the clear conflict with Policy HG.13

With regards to the loss of the wall the Inspector stated that significant weight was given to the importance of supporting the local business. However, it considered that the benefits of the scheme would be clearly outweighed by the detrimental impact it would have upon the character and appearance of this part of the conservation area.

App. Ref: 11/02095/AR & 11/03561/LBA
Location: 2 Northumberland Buildings, Bath, BA1 2JB
Proposal: Display of a cut out letters sign, a swing sign and a brass plaque (Advertisement consent) & External alterations for the display of cut out letters (Listed Building Consent)

Decision: SPLIT (AR) & REFUSE (LBA)
Decision Date: 2nd August 2011 & 10th October 2011
Decision Level: Delegated
Appeal Decision: Dismiss

Summary:

The cut out lettering signage was refused in both applications as the signage, due to its size and siting, would lead to an erosion of the simplicity of the façade of the building, which is fundamental to its aesthetic and therefore architectural significance.

The Inspector notes that the terrace is an excellent example of Thomas Baldwin's work, a striking piece of neo-classical architecture and has had little external alterations. She notes that there have been few external changes and, with the exception of one set of wall-mounted lettering at the other end of the building, the overall unity and simplicity of the original design has been largely preserved. She considers that what is now proposed would interfere with and detract from that unity and simplicity, and would adversely affect the special architectural and historic interest of the terrace and this in turn is harmful to this part of the Conservation Area.

App. Ref: 11/10941/FUL & 11/01942/LBA
Location: Rowan House, High Street, Freshford, Bath, BA2 7WF
Proposal: Provision of a new waste pipe to the external wall
Decision: Refuse
Decision Date: 16th September 2011 & 15th September 2011
Decision Level: Delegated
Appeal Decision: Dismiss

Summary:

The applications were refused as the appellant proposed the use of plastic polypipe for the waste pipe. The Council considered that the use of modern materials, such as polypipe, was not appropriate to the period of the building thus would harm the special interest of Rowan House.

The Inspector noted that new services can have a detrimental impact on historic building but this can be minimised by the use of appropriate materials, such as cast iron downpipes on Victorian and Georgian buildings. She concluded that although the proposed pipework would resemble cast iron, its inappropriate plastics material, the form of its fittings, and its out of keeping self-finished character, it would stand out as a modern addition, irrespective of its height above the ground. Due to its inappropriate character and its unsympathetic appearance, the proposed pipework would harm the special architectural interest of the listed building. She noted the removal of pipework at the back would not outweigh the loss of significance that these inharmonious works would cause to the heritage asset. She considered that the proposed external pipework would harm, and thus, fail to preserve, the special architectural interest of the listed building.

She noted the listed building is within the Freshford Conservation Area which is mainly characterised by its historic street pattern and the architecture of its historic and listed buildings. The use of appropriate traditional building materials contributes positively to the character of the historic architecture in the Conservation Area. Because the proposed external pipework would fail to preserve the special architectural interest of the listed building, it would, in turn, fail to preserve or enhance the character of the Conservation Area.

App. Ref: 11/03666/FUL
Location: The Lodge, Kelston Knoll, Kelston Road, Kelston, Bath, BA1 9AD
Proposal: Erection of a single storey extension
Decision: Refuse
Decision Date: 20th October 2011
Decision Level: Delegated
Appeal Decision: Allowed

Summary:

The application was refused as the proposed extension represented a 140% volume increase above the original volume of the dwelling, when taking into account previous extensions. This was considered to be a disproportionate addition above the original dwelling thus representing inappropriate development, which is harmful by definition to the Green Belt.

The Inspector noted the original volume and disproportionate addition are not defined in PPG2. He afforded only limited weight to the Council's SPD as it uses an amended version of Local Plan Policy HG.15. He took the view that the wording in the Local Plan should be used and in light of that, the proposed extension was modest and a limited addition to the host building.

App. Ref: 11/04813/FUL
Location: 1 Beckhampton Road, Oldfield Park, Bath
Proposal: Conversion and extension of existing garage to create additional habitable space to No.1 Beckhampton Road
Decision: Refused
Decision Date: 23 December 2011.
Decision Level: Delegated
Appeal Decision: Dismissed

Summary:

The Inspector considered that the two main issues in this appeal to be the effect that the proposed development would have upon (i) the effect on the character and appearance of the locality including the City of Bath World Heritage Site, and (ii) the effect on the living conditions of occupants of the host dwelling, 2 Beckhampton Road and 27 Shaftesbury Road, through potential overlooking and light and noise emissions.

It was considered that the appeal scheme would require the substantial alteration and extension of the garage. The front elevation of the building would be brought closer to the rear elevation of the existing dwelling and the monopitch roof on the garage would be replaced with a pitched roof containing rooflights along both the front and rear roof planes. The elevation facing Shaftesbury Road would be faced with Bath stone to match the traditional local material and the remaining elevations finished with render.

The views of the building from the public domain would be restricted mainly to its side elevation fronting Shaftesbury Road although glimpses of the upper parts of the building and roof would also be possible. The Inspector considered that those views would not be dominant or out of context in the street scene of Shaftesbury Road. Although similar detached buildings within the rear gardens of nearby dwellings were noted it was considered that the appeal building which would replace a garage of broadly similar dimensions would be out of context with the character

or appearance of the locality or the City of Bath World Heritage Site and there would be no material conflict with the thrust of LP1 policies HG.12, D.2 and D.4 in those respects.

Although the outbuilding would provide only ancillary accommodation to the main dwelling and not be a separate dwelling it was considered that arrangement is desirable and it would be harmful to the living conditions of the occupant of the outbuilding through overlooking.

A rooflight within the rear roof plane of the proposed outbuilding would be in close proximity to a first floor window in the side elevation of 27 Shaftesbury Road. The proposed rooflight would, along with others in the roof, give rise at times to some light and noise emissions which would be harmful to the living conditions of potential occupiers of the neighbouring first floor accommodation.

It was therefore considered that the appeal scheme would be harmful to the living conditions of present and future occupants of the host dwelling, 2 Beckhampton Road and 27 Shaftesbury Road, through potential overlooking and light and noise emissions in conflict with LP policy D.2.

App. Ref:	11/01315/AR
Location:	27 Milsom Place, City Centre, Bath
Proposal:	The advertisement proposed is replacement of all existing signage with new signage, exterior retractable awnings and menu boxes.
Decision:	Refused
Decision Date:	30 June 2011
Decision Level:	Delegated
Appeal Decision:	Dismissed

Summary:

The Inspector considered that the main issue is the effect of the proposals on 27 Milsom Place which is listed grade II and on the historic character and appearance of the Bath Conservation Area and World Heritage Site.

The intimate contained nature of Milsom Place, and the informality and modest scale of the buildings and spaces signals its subservient relationship to the formal street frontages. Additions, alterations and lighting have a consistent, restrained and modern character that gives a unifying cohesion to the development whilst allowing the character of individual historic structures and the spaces between them to remain predominant.

The appellant's wish to give prominence to their business is understandable, as is the wish to use standardised branding. In this case however the heritage significance of the buildings and the townscape makes the site a particularly sensitive one. The works, which relate to a restaurant within Milsom Place, have been carried out and the advertisements are in place.

The Inspector noted that the Council has raised no objection to the lettering over the entrance to Milsom Place from Broad Street or to the retractable awnings and did not disagree. The lettering in the entrance passageway stands proud of the wall but this and the lettering over the display niche have a similar muted finish and simple form to that over the entrance from Broad Street. The menu display box too has a subdued finish. All however are lit by projecting 'retro' style swan neck lights. Whilst it was understood these are typical 'Cote Brasserie' lights they have no design or historic relationship with the Georgian buildings, and their large and dramatic form is wholly at odds with that of the restrained modern cylinder lights installed throughout Milsom

Place. As a result of this lighting, the signage and menu box have an obtrusive, cluttered and overly prominent appearance.

With the umbrella in place and the restaurant awnings extended this pleasant open space is almost wholly enclosed. Not only does this result in the brand awing and umbrella together dominating the courtyard, but also a diminution of the quality of the space between the buildings.

Whilst the use of brand standard lighting and the umbrella give additional prominence to the business this is not sufficient to outweigh the harmful impact they have on the listed building and its setting. It was concluded therefore that the proposed works and advertisements would fail to preserve the special architectural interest of the listed building and fail also to preserve the historic townscape character and appearance of the Conservation Area and World Heritage Site. As such the proposals would conflict with the objectives of Policies BH.2, D.2, D.4, BH.6 and BH17 of the Bath & North East Somerset Local Plan 2007.

App. Ref:	11/00811/FUL
Location:	Parcel 4645 Access Road to Quarry, Upper Weston, Bath
Proposal:	Installation of new telecommunications base station incorporating a 12.3m high lightweight & slim-line lattice mast with cabinets at ground level enclosed by a closed boarded fence and three rows of planting to its perimeter at Council land, adjacent Primrose Hill Reservoir, track off Weston Park West, Weston, Bath, BA1 4BB
Decision:	Refused
Decision Date:	31 May 2011
Decision Level:	Delegated
Appeal Decision:	Dismissed

Summary:

The Inspector considered that the main issues related to whether a) the proposal constitutes inappropriate development in the Green Belt, b) its effect on the openness and visual amenity of the Green Belt and on the character and appearance of the area, which lies within the Bath Conservation Area and the Bath World Heritage Site, and c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The proposal would be sited on land that is currently open and undeveloped, and its presence would inevitably result in a loss of openness. It was therefore considered that the development would be inappropriate development in the Green Belt.

The top of the proposed lattice mast would be visible from parts of the residential road network to the south and south-east. In these distant views it would be seen over or between houses, so that it would be seen in context with other development. However, there is public access to the hill-slope field and there are a number of public footpaths criss-crossing the open hillside in the vicinity of the site, including one which runs very close to it, and part of the Cotswolds Way, which runs along the lower edge of the field. Landscaping proposed around the base station compound would eventually effectively screen the lower level structures, but the proposed mast would be visible from much of the open hillside. In this context it was considered that it would be perceived as an incongruous and visually intrusive structure in the open countryside.

One of the objectives of Green Belts is to retain attractive landscapes, and enhance landscapes, near to where people live. The proposal would diminish the attractiveness of the rural landscape adjoining, and forming a setting for, Weston, and, more broadly, the city of Bath. It would thus conflict with this important Green Belt objective. Indeed, tracts of open hillside are noted as having particular importance in giving Bath its green and rural setting and accordingly are given specific protection under Policy NE.3 of the Bath and North East Somerset Local Plan including minerals and waste policies (LP).

It was concluded that the proposal would be contrary to this development plan policy and to those aimed at protecting the World Heritage Site and its setting (LP Policy BH.1), the Conservation Area (LP Policy BH.6), the visual amenities of the Green Belt (LP Policy GB.2), landscape character (LP Policy NE.1) and the character of the Cotswolds AONB (LP Policy NE.1). Furthermore, it would diminish the openness of the Green Belt, its most important attribute.

App. Ref:	11/02013/FUL
Location:	The Pelican Inn, 10 South Parade, Chew Magna
Proposal:	Erection of new link building and alterations to existing stone barns
Decision:	Refused
Decision Date:	26 October 2011
Decision Level:	Delegated
Appeal Decision:	Dismissed

Summary:

The Inspector considered that the two main issues in this appeal to be the effect that the proposed development would have upon (a) the character and appearance of the area, and (b) protected species.

The Pelican occupies a prominent position at the centre of the village. In public views from the street, including the elevated footpath on the opposite side of the road, there is a clear physical and functional distinction between the detached, two-storey, architecturally detailed Public House, and the subservient, single-storey east barn, which has no openings in its street elevation. The gated access through the gap between these two buildings provides views of the interior courtyard, and the barn that encloses it on the farther side. This visual permeability allows an understanding of the spatial relationships between the Public House, its outbuildings and courtyard, all of which form part of the historic grain of the village.

It was considered that the proposed link between the two buildings would erode the longstanding physical and functional distinction between them, and result in the loss of the existing visual permeability from the public realm. It was considered that this would be harmful to the existing character and appearance of both The Pelican Inn, and the wider Conservation Area. It was concluded that the proposed development would conflict with the objectives of Policy BH.6 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007, which explains that particular attention will be given to the retention of groups of buildings, existing spaces and the historic grain, and provides that development will only be permitted where it preserves or enhances the character or appearance of the Conservation Area.

The Inspector did note that in the current economic climate, the government places considerable emphasis on encouraging growth. The appellant has carried out extensive refurbishment work

so that the Public House, which had declined in popularity in recent years, is now thriving. The current development proposals would enable The Pelican to respond to increasing demand and provide improved facilities for its customers, but while some weight was attached to the economic benefits this would bring, that weight was not sufficient to outbalance the adverse impacts identified.

Finally, the Inspector noted that evidence had been submitted by the appellant to the effect that while the recommended additional ecological surveys have not yet been carried out, its ecological adviser has confirmed that even if bat activity were to be found, it would be possible to provide suitable facilities within the roof voids of the barns in the context of the proposed alterations. On that basis, if the Inspector was minded to grant planning permission for the proposed development, it would be open to attach a condition requiring that the further surveys, along with full details of the proposed incorporation of any measures they identified as necessary to mitigate the impact of the proposals on bats and their habitat, be provided to the Council for written approval prior to the commencement of any work on the barns.

App. Ref: 11/04299/FUL
Location: 7 Valley View Road, Paulton
Proposal: Erection of 2m high close board fence to south boundary.
Decision: Refused
Decision Date: 15 December 2011
Decision Level: Delegated
Appeal Decision: Dismissed

Summary:

The main issue is the effect of the proposed fence on the character and appearance of the locality. Means of enclosures in this pleasant residential area are generally comprised of a visually acceptable mixture of walls, of various heights, built in permanent materials, sometimes backed by hedges/shrubbery, and hedges in their own right. I consider that the means of enclosure proposed would appear crude and utilitarian in comparison, and such is its proposed length and prominence that it would undoubtedly cause an adverse local visual impact.

App. Ref: 11/03251/FUL
Location: Indaba, Entry Hill, Combe Down, Bath
Proposal: Provision of rear dormer and loft conversion including external wall modifications
Decision: Refused
Decision Date: 4 October 2011
Decision Level: Delegated
Appeal Decision: Allowed

Summary:

Share the Council's view that the existing building is not of any significant architectural merit. Raising the eaves by the limited extent proposed would not have any harmful impact on the overall appearance of the building. Nor would this fundamentally alter its existing modest character. The proposal would also introduce a larger gap between the windows and eaves of Indaba than is present at Brishella, and at most other nearby dwellings. But in my judgement neither this, nor the creation of the frontage roof lights, would give rise to such significant or prominent differences as would detract from the visual harmony between Indaba and Brishella.

Nor would it, in the context of the many variations in the design of the dwellings along this part of Entry Hill, diminish the attractive character and appearance of the street scene as a whole.

App. Ref: 11/02891/FUL
Location: 13 West Avenue, Oldfield Park, Bath
Proposal: Change of use of dwellinghouse to 4no studio flats and 1no 1-bedroom flat
Decision: Refused
Decision Date: 5 September 2011
Decision Level: Delegated
Appeal Decision: Dismissed

Summary:

The main issues in this case are, first, whether the proposal would be an overdevelopment of the site not compatible with existing uses in the locality and, second, whether the development would provide satisfactory accommodation to meet the needs of future occupiers. At present the occupancy of the property is limited to a maximum of 6 persons under Use Class C4, whereas the proposed change could lead to occupancy levels significantly above that figure if, for example, the units were occupied by 2-person households. Such an outcome would represent an over-development of the property which would substantially increase occupancy levels and could lead to additional disturbance and traffic generation. Conclude that the proposal would be an overdevelopment of the site, and not compatible with existing uses in the area. The kitchen space available would be about 3.6sqm which, combined with the limited living space in the multi-functional rooms, would result in inadequate space standards for day to day living.

App. Ref: 11/02602/FUL
Location: South Breach Cottage, Ashton Hill, Corston
Proposal: Erection of a car shelter and equipment trailer (Retrospective).
Decision: Refused
Decision Date: 21 October 2011
Decision Level: Delegated
Appeal Decision: Allowed

Summary:

Afford limited weight to the guidance within the SPD on extensions since it is based on a modified form of LP policy HG.15, and no adequate explanation has been provided as to the reason for the change of wording. The dwelling has been extended before, but this modest development in my view represents a limited extension to an existing dwelling in the terms of LP policy GB.1. Under the terms of LP policy HG.15, if it can be demonstrated that the cumulative effect of another extension would not contribute to a deterioration in rural character, that built should be considered as not inappropriate development in the GB. Most of the structure is screened and well hidden behind a hedge fronting the adjoining highway, but that which can be seen from outside the site from public vantage points is well designed and comprised of traditional materials consistent with its rural location.

App. Ref: 11/02109/FUL
Location: 70 Russet Way, Peasedown St. John
Proposal: Erection of a self-contained 3 bedroom dwellinghouse.
Decision: Refused
Decision Date: 17 August 2011
Decision Level: Chair referral - Delegated
Appeal Decision: Allowed

Summary:

The principal issue is the effect of the proposed development on the character and appearance of the host building and the area. The proposal is for a two-storey dwelling which would be attached to the side of the host building. Its front building line would be set back by about 1.5m, and its rear elevation would project about 1m beyond the rear building line. The proposed dwelling would be set about 3m from the side boundary and about 4m (at its closest point) away from the footway along Orchard Way, the main distributor road and the proposed roof line will be set 1m above the existing. No.70 stands at the entrance to the estate of which it is part. The design of the proposed dwelling, with its prominent roof form, would not appear out of keeping, and would have the merit of providing a strong architectural statement at the entry to the estate; it would not appear cramped on its site. Conclude that the proposed development would be visually well integrated with the character and appearance of the host building and of the area.

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